

Ordinance No.: 19-01  
Zoning Text Amendment No.: 18-12  
Concerning: Setback Exemptions –  
Fences  
Draft No. & Date: 1 – 11/16/18  
Introduced: December 11, 2018  
Public Hearing: January 15, 2019  
Adopted: February 5, 2019  
Effective: February 25, 2019

**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 Riemer

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**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.*

## OPINION

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.

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.

In its report to the Council, the Montgomery County Planning Board recommended approval as introduced. Planning staff did not object to ZTA 18-12 given that the relaxation of the height standard could assist in minimizing possible visual and audible obtrusions associated with trains.

The Council's public hearing was conducted on January 15, 2019. All testimony supported the approval of ZTA 18-12.

The Council referred the text amendment to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on January 28, 2019. The Committee recommended approving ZTA 18-12 as introduced.

The Council agreed with the recommendation of the Committee.

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. 18-12 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. DIVISION 59-6.4 is amended as follows:**

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

\* \* \*

**Section 6.4.3. General Landscaping Requirements**

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**C. Fences and Walls**

\* \* \*

**3. Exemptions from Building Line and Setbacks**

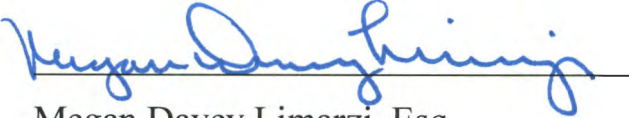
Building line and setback requirements do not apply to:

- 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

- 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.  
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36 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the  
37 date of Council adoption.  
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39 This is a correct copy of Council action.  
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41   
42 Megan Davey Limarzi, Esq.  
43 Clerk of the Council