

LEGISLATIVE RESOLUTION 20-O-09

RESOLUTION AND ORDINANCE OF THE TOWN OF UNIVERSITY PARK TO AMEND CHAPTER 4 “BUILDING CODE”, §4-102 "DEFINITIONS", §4-103, “PERMIT REQUIRED”, AND § 4-110, “LIMITATIONS ON FENCES” OF THE CODE OF ORDINANCES OF THE TOWN OF UNIVERSITY PARK, TO ALLOW FENCES SIX (6) FEET IN HEIGHT IN SIDE AND REAR YARDS WITH SOME EXCEPTIONS, TO DEFINE GARDEN FENCES AND EXEMPT CERTAIN GARDEN FENCES FROM A PERMIT FEE, TO CLARIFY CERTAIN DEFINITIONS, TO REQUIRE FENCES BETWEEN FOUR AND SIX FEET IN HEIGHT TO BE MADE OF MATERIALS INCORPORATING OPENNESS, AND TO MAKE CLARIFYING AND CONFORMING CHANGES

WHEREAS, pursuant to §5-202 of the Local Government Article, Annotated Code of Maryland, the Mayor and Common Council of the Town of University Park have the power to pass such ordinances as deemed necessary to protect the health, safety and welfare of the residents of the municipality and to prevent and remove nuisances; and

WHEREAS, the Mayor and Common Council adopted §4-110 "Limitations on fences", to regulate the height, materials and placement of fences; and

WHEREAS; the Mayor and Common Council have determined that it is in the public interest that the four (4) foot height limitation that was placed on fences in the side and rear yards should be increased to six (6) and to adopt clarifying and conforming changes.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Common Council of the Town of University Park that Chapter 4, “Building and Construction”,

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW

[Brackets] indicate matter deleted from existing law

* * Asterisks* * indicate existing law which are unchanged but not set forth in the ordinance

CAPITALS INDICATE MATTER ADDED BY AMENDMENT TO THE PROPOSED ORDINANCE

[Brackets] indicate matter deleted by amendment to the proposed ordinance

§4-102 "Definitions", be, and is hereby repealed, re-enacted and amended to read as follows:

§ 4-102 **Definitions.**

As used in this chapter, the following terms mean:

BUILDING RESTRICTION LINE

The setback line established by the Prince George's County Zoning Code for the R-55 Zone AND RSF-65 ZONE, by plat, or by covenant or agreement, whichever is applicable, beyond which no part of a main building or other structure may extend.

* * * *

FENCE Any structure, wall, RETAINING WALL, barrier, [ø] partition OR COMBINATION THEREOF erected for the purpose or with the effect of enclosing a piece of land, dividing a piece of land into distinct portions, separating two contiguous estates, or stopping and/or creating an obstacle to pedestrian crossings, or consisting of a section or sections of any type or fencing material, including chain, railing, arbor, or trellis, or any other type of similar structure constructed or set in place and made of any material such as bricks, blocks, stones, wood, iron, wire, plastics, concrete or any other building or construction material. Fence does not include underground, invisible animal restraint barriers.

* * * *

FENCE HEIGHT. THE HEIGHT OF A FENCE IS MEASURED FROM THE TOP OF THE FENCE TO THE GRADE ON THE SIDE OF THE FENCE WHERE THE GRADE IS THE LOWEST.

* * * *

GARDEN FENCE A FENCE ENCLOSING AN AREA NOT EXCEEDING 25% OF THE YARD WHERE LOCATED, USED FOR NON-COMMERCIAL GROWING OF PLANTS, HERBS, VEGETABLES, FRUITS OR FLOWERS, AND

- A. IF CONSTRUCTED IN A FRONT YARD, NOT EXCEEDING FOUR (4) FEET IN HEIGHT; OR
- B. IF NOT CONSTRUCTED IN THE FRONT YARD, NOT EXCEEDING SIX FEET IN HEIGHT.

POLES, TRELLISES, COLD FRAMES AND OTHER GARDEN APPURTENANCES MAY BE LOCATED WITHIN THE GARDEN FENCE ENCLOSURE. FENCING MATERIALS ARE LIMITED TO OPEN WIRE MESH SUCH AS POULTRY NETTING, CHICKEN WIRE OR RABBIT GUARD.

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MATERIALS INCORPORATING OPENNESS TO SATISFY A REQUIREMENT THAT FENCE MATERIALS MUST INCORPORATE OPENNESS, THE SPACES BETWEEN THE

SLATS, PLANKS, BOARDS, BALUSTERS OR PICKETS MUST EQUAL OR EXCEED THE WIDTH OF THE SLATS, PLANKS, BOARDS, BALUSTERS OR PICKETS USED.

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Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Common Council of the Town of University Park that Chapter 4 “Building and Construction”, §4-103, “Permit required”, be and it is hereby repealed, re-enacted and amended to read as follows:

§ 4-103 Permit required.

No person shall construct or erect any building, structural addition, fence (EXCEPTING A GARDEN FENCE), swimming pool, or other improvement; or move or demolish any sound structure or improvement, without a valid building permit issued by the Clerk-Treasurer or his designee. A permit is not required for the demolition or removal of fences or collapsed structures, or for decorative or preventative maintenance. No construction shall proceed without a validly issued permit being prominently displayed for inspection at the site of construction.

Section 3. BE IT FURTHER RESOLVED that Chapter 4 “Building Code”, §4-110

"Limitations on fences", be, and is hereby repealed, re-enacted and amended to read as follows:

§ 4-110 Limitations on fences.

A. No fence [~~or wall or combination thereof~~] within the Town shall:

(1) Exceed [~~four~~] SIX feet in height from existing finished grade [~~, unless it surrounds a swimming pool, as defined in the Prince George's County Zoning Code~~]. ANY FENCE EXCEEDING FOUR FEET IN HEIGHT SHALL BE MADE OF MATERIALS INCORPORATING OPENNESS, SUCH AS WROUGHT IRON, SPLIT RAIL, OR PICKET. FENCES EXCEEDING FOUR FEET IN HEIGHT MAY NOT BE CONSTRUCTED OF CHAIN LINK.

(2) Be erected or maintained in the front yard, except as provided in Subsection C of this section AND EXCEPT FOR GARDEN FENCES.

(3) Impede or interfere with the natural flow of surface water from adjoining property.

(4) Be constructed so as to encroach into the public right-of-way.

(5) Be constructed, RECONSTRUCTED OR REPLACED in whole or in part [~~of~~] WITH barbed wire.

B. A fence [~~, wall, or fence/wall combination~~] may be erected or maintained in the side or rear yard of the property, but shall not be erected beyond the front building restriction line for any existing or proposed street [~~, alley or roadway~~] AS DEFINED IN CHAPTER 1 OF THIS CODE that borders the property, except as provided in Subsection C of this section AND FOR GARDEN FENCES, and as follows:

(1) If the main building on the lot TO BE FENCED extends beyond the front building restriction line for a bordering street, then a side OR REAR yard fence may be constructed along a parallel line from the rear corner of THE MAIN building to the rear of the lot.

(2) If there are no houses facing the street on that side of the block on which a side or rear yard fence is to be built, then it may be constructed to the side or rear lot line.

C. Retaining walls built to retain or support the lateral pressure of earth or water or other superimposed load shall be designed and constructed of approved masonry, reinforced concrete, steel sheet piling, or other approved materials within the allowable stresses of acceptable engineering practices. Retaining walls may be constructed where necessary in the front, side, or rear yard, but shall not extend more than one foot above finished grade, EXCEPT THAT A RAILING OR FENCE AS REQUIRED FOR HEALTH AND SAFETY REASONS BY PRINCE GEORGE'S COUNTY MAY BE PLACED AS APPROVED ON RETAINING WALLS.

(1) Retaining walls shall be designed to resist the pressure of the retained material, including both dead and live load surcharges, to which they may be subjected, and to ensure stability against overturning, sliding, excessive foundation pressure, and water uplift.

(2) Unless drainage is provided, the hydrostatic head of water pressure shall be assumed equal to the height of the wall.

(3) All masonry retaining walls other than reinforced concrete walls shall be protected with an approved coping.

D. ~~[Any protective railings, fences, or barriers required by this Building Code which do not conform to this section due to location, dimensions, materials, or open percentage, must be considered as a special exception by the Common Council pursuant to § 4-115 of this article.~~

~~E.]~~ Notwithstanding any other provision of this section, the Common Council shall not authorize the construction of any fence, wall, or combination, which will adversely affect the public health, safety, welfare or comfort.

~~[F.]~~ E. This section shall apply to all new fences~~[, walls, or combinations]~~ constructed, reconstructed, or replaced on or after the effective date of this section and to any fence, wall, or combination which encroaches on the public right-of-way. This section shall not apply to the reconstruction or replacement, with similar dimensions, placement and materials, of any fence~~[, wall or combination]~~ in existence or properly permitted before the effective date of this section, or for which a special exception has previously been granted by the Council, regardless of when it was first constructed.

~~[G. Notwithstanding any other provision of this section, no fence [, wall or combination] may be reconstructed or replaced with barbed wire.]~~

~~[H.]~~ F. Notwithstanding any other provision of this section, chicken wire may not be utilized to construct, reconstruct, or replace any fence which ~~[runs along]~~ ABUTS or is within four feet of any existing or proposed street, road, alley or public right-of-way, or ~~[immediately adjacent to]~~ ABUTS any property line of an adjoining lot owned by another.

~~[I.]~~ G. Trellises and arbors up to six feet in height may be installed in any area in which a fence may be constructed under this section. Trellises and arbors between six and eight feet in height may be installed in any area in which a fence may be constructed under this section, subject to the restrictions of Section 27-420 of the Prince George's County Zoning Code, AS AMENDED, prohibiting construction in required yards. Trellises and arbors may not obscure visibility from adjoining properties.

Section 4. Be it further resolved that a certified copy of this Ordinance shall be submitted to the Prince George's County Council within five days after its adoption. The Ordinance shall become effective twenty (20) days after review and approval by the County Council. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the Town that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

Section 5: Be it further resolved that a complete and exact copy of this proposed Ordinance shall be posted on the entrance door of the Town Building of University Park, Maryland, for a period of not less than ten (10) days, and a fair summary of this Ordinance shall be published at least once in a newspaper having general circulation in the community.

APPROVED this _____ day of _____, 2020

ATTEST:

MAYOR AND COMMON COUNCIL
TOWN OF UNIVERSITY PARK

By: _____
Lenford C. Carey, Mayor

APPOVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Suellen M. Ferguson, Town Attorney