

Amending §4-102 and §4-110 Fences
Sponsored by: Councilmember Verrill

AMENDED LEGISLATIVE RESOLUTION 20-O-09

RESOLUTION AND ORDINANCE OF THE TOWN OF UNIVERSITY PARK TO AMEND CHAPTER 4 “BUILDING CODE”, §4-102 "DEFINITIONS" 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 REAR YARDS, WITH SOME EXCEPTIONS, TO CLARIFY CERTAIN DEFINITIONS, TO PROHIBIT CHAIN LINK FENCES IN EXCESS OF FOUR FEET IN HEIGHT AND TO MAKE CLARIFYING AND CONFORMING DEFINITIONS AND 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 rear yards should be increased to six (6) feet, that fences made of chain link in excess of four (4) feet in height be prohibited, and to adopt clarifying and conforming definitions and changes.

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

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Common Council of the Town of University Park, Maryland that Chapter 4 “Building Code”, §4-102 "Definitions", be, and is hereby repealed, re-enacted and amended to read as follows: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.

* * * *

Section 2. 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~~] **FOUR FEET IN HEIGHT IN THE SIDE YARD, AND SIX feet in height IN THE REAR YARD,** from existing finished grade [~~unless it surrounds a swimming pool, as defined in the Prince George's County Zoning Code~~]. 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.

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

(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 [ø] WITH barbed wire.

(6) **BE CONSTRUCTED WITH CHAIN LINK IF EXCEEDING FOUR FEET IN HEIGHT.**

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 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 2. 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. This ordinance shall become effective twenty (20) days after enactment by the Mayor and Common Council of University Park and 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 3: 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 7th day of December, 2020

ATTEST:

MAYOR AND COMMON COUNCIL
TOWN OF UNIVERSITY PARK

Andrea D. Marcavitch
Andrea Marcavitch, Clerk

By: Lenford C. Carey
Lenford C. Carey, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Suellen M. Ferguson
Suellen M. Ferguson, Town Attorney

TUP Adopted 20-O-09 Amended Fence Ordinance

Final Audit Report

2020-12-11

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