



November 30, 2017

City of College Park  
240-487-3500  
[www.collegeparkmd.gov](http://www.collegeparkmd.gov)

City Hall  
4500 Knox Road  
College Park, MD 20740-3390

City Manager  
240-487-3501

City Clerk  
240-487-3501

Finance  
240-487-3509

Human Resources  
240-487-3533

Parking Enforcement  
240-487-3520

Planning  
240-487-3538

Youth & Family Services  
4912 Nantucket Road  
College Park, MD 20740-1458

240-487-3550

Seniors Program  
301-345-8100

Public Services  
4601-A Calvert Road  
College Park, MD 20740-3421

Code Enforcement  
240-487-3570

Public Works  
9217 51st Avenue  
College Park, MD 20740-1947

240-487-3590

Redis C. Floyd  
Clerk of the Prince George's County Council  
County Administration Building  
14741 Governor Oden Bowie Drive, Room 2198  
Upper Marlboro, MD 20772

Re: College Park Ordinance 17-O-01, Fences

Dear Madame Clerk:

Please find enclosed a certified copy of College Park Ordinance 17-O-01, which was adopted by the College Park City Council on November 28, 2017. This Ordinance amends §87-23, "Fences," of the College Park City Code.

We would appreciate your forwarding a copy of this Ordinance to the members of the Prince George's County Council for their review and approval.

If there is any further information that I can provide, please do not hesitate to contact me at 240-487-3501. Thank you in advance for your assistance.

Sincerely,

Janeen S. Miller  
City Clerk

Copy: Council Member Dannielle Glaros  
Council Member Mary Lehman  
Terry Schum, Director of Planning  
Suellen Ferguson, City Attorney

**RECEIVED**

**DEC - 7 2017**

CLERK OF THE COUNCIL  
PRINCE GEORGE'S COUNTY MARYLAND



## C E R T I F I C A T E

I, Janeen S. Miller, City Clerk of the City of College Park, Maryland, do hereby certify under the penalties of perjury that the attached is a true and correct copy of College Park Ordinance 17-O-01, An Ordinance Of The Mayor And Council Of The City Of College Park Amending Chapter 87 "Building Construction", By Repealing And Reenacting §87-23 "Fences", To Authorize Front Yard And Garden Fences, Change The Variance Criteria For Fences, Conform To County Code Requirements, And Definitions, Clarify That A Variance Is Not Required To Replace An Existing Fence With Similar Materials, Or Materials Such As Wrought Iron, Split Rail, Or Picket, And Clarify Existing Requirements; And §87-19, "Appeals", To Enact Conforming Changes.

Ordinance 17-O-01 was adopted by the College Park City Council on November 28, 2017 with a vote of 8-0-0.

Janeen S. Miller, City Clerk

November 29, 2017

SEAL

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK AMENDING**  
**CHAPTER 87 "BUILDING CONSTRUCTION", BY REPEALING AND REENACTING**  
**§87-23 "FENCES", TO AUTHORIZE FRONT YARD AND GARDEN FENCES,**  
**CHANGE THE VARIANCE CRITERIA FOR FENCES, CONFORM TO COUNTY**  
**CODE REQUIREMENTS, AND DEFINITIONS, CLARIFY THAT A VARIANCE IS**  
**NOT REQUIRED TO REPLACE AN EXISTING FENCE WITH SIMILAR**  
**MATERIALS, OR MATERIALS SUCH AS WROUGHT IRON, SPLIT RAIL, OR**  
**PICKET, AND CLARIFY EXISTING REQUIREMENTS; AND §87-19, "APPEALS", TO**  
**ENACT CONFORMING CHANGES**

**WHEREAS**, pursuant to §5-202 of the Local Government Article, Annotated Code of Maryland, the City of College Park (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

**WHEREAS**, Mayor and Council have adopted Chapter 87, "Building Construction" to ensure the health and safety of the residents of the City; and

**WHEREAS**, §25-303 of the Land Use Article, Annotated Code of Maryland, authorizes the City to impose stricter or additional conditions, restrictions, or limitations on fences than are imposed by Prince George's County; and

**WHEREAS**, the Mayor and Council adopted §87-23, "Fences" to regulate the construction and re-construction of fences to preserve and protect the character of residential neighborhoods in the City, permit the rapid, free and unobstructed access to residences by emergency vehicles, personnel and equipment; allow for the unobstructed establishment, maintenance and creation of public rights-of-way along the streets and sidewalks in the City; prevent the obstruction or reduction, by man-made structures, of visibility at corners and intersections for drivers and pedestrians; add to the attractiveness and comfort of the residential

CAPS

[Brackets]

Asterisks \*\*\*

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance



district; create a better home environment in the City; preserve an area which is generally regarded by the public as pleasing to the eye; and preserve, improve and protect the general character of lands within the City and the improvements thereon; and

**WHEREAS**, the City's Advisory Planning Commission and City staff have recommended certain changes to the Council with respect to §87-23; and

**WHEREAS**, the Mayor and Council have determined that it is in the public interest to incorporate the recommended changes into §87-23.

**Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park that Chapter 87 "Building Construction", §87-19, "Appeals" be and is hereby repealed and reenacted with amendments to read as follows:

**§87-19 Appeals AND VARIANCES**

A. \* \* \* \*

B. After such hearing, the Commission may affirm, amend or modify the order appealed from. In hearing appeals, the Commission may also grant the applicant a waiver from strict compliance with a code provision upon an express finding that strict compliance is unreasonable or contrary to the spirit or intent of the code and that strict compliance would impose an undue hardship upon the appellant, provided that the waiver does not compromise the health, safety and welfare of the citizens of the community. The criteria to be used in determining whether to grant such a waiver in ~~[appeals]~~ VARIANCES regarding fences are set out in §87-23~~[K]~~ J. The Commission may retain such technical experts as it may require upon consultation with the City Manager. The Commission's decision shall be by way of a written order or, in the case of fence ~~[appeals]~~ VARIANCES, a written recommendation. The decisions of the Commission shall constitute an order, and any person who shall fail, refuse or neglect to comply with any such order shall be guilty of violating the provisions of this chapter. The decision of the Commission shall in all cases be final, except as otherwise provided herein.

C. \* \* \* \*

D. Any person of record and/or any council member may file with the Mayor and Council, within 15 calendar days after notice of the Commission's recommendation regarding a fence ~~[appeal]~~ VARIANCE, exceptions thereto and a request for oral argument before the Mayor and Council on the basis that the recommendation fails to comply with the

criteria established in § 87-23. The following procedure shall apply in the event of the filing of an exception and request for oral argument:

E. – F. \* \* \* \*

- G. The Commission is hereby established as the body to act upon appeals from the Public Services Director's denial of a building permit as set forth above. The City's Planning, Community and Economic Development Department shall assist the Commission with regard to fence ~~[appeals]~~ VARIANCES as set out in § 15-20C as appropriate.

**Section 2.** BE IT FURTHER ORDAINED AND ENACTED by the Mayor and

Council of the City of College Park that Chapter 87 "Building Construction", §87-23, "Fences" be and is hereby repealed and reenacted with amendments to read as follows:

**§ 87-23 Fences.**

A. SCOPE: THIS SECTION SHALL APPLY TO ALL FENCES, AS DEFINED HEREIN, CONSTRUCTED, RECONSTRUCTED OR REPLACED ON RESIDENTIAL PROPERTIES IN RESIDENTIAL ZONES ON OR AFTER OCTOBER 19, 2005, EXCEPT THOSE ALLOWED BY APPROVED CONCEPTUAL SITE PLANS, DETAILED SITE PLANS AND SPECIAL EXCEPTIONS.

B. Definitions.

(1) As used in this section, the following terms shall have the meanings indicated:

~~[APPARENT FRONT YARD]~~

~~The area of a residential lot between that part or parts of the building which appear(s) to be its front because of its architectural features and orientation to a publicly dedicated street or private street or private parking area and the dedicated street.]~~

FENCE

Any ~~[hedge or other natural growth greater than four feet in height, any]~~ structure, barrier, wall, retaining wall, or partition or combination thereof, REGARDLESS OF COMPOSITION, AND ANY HEDGE OR OTHER NATURAL GROWTH GREATER THAN THREE FEET IN HEIGHT THAT CONSTITUTES A BARRIER TO ACCESS TO THE LOT, having the effect of or ~~[erected for the]~~ CONSTRUCTED AND MAINTAINED FOR purposes SUCH AS, BUT NOT LIMITED TO, ~~[of]~~ enclosing a piece of land, dividing a piece of land into distinct portions, separating two contiguous estates, EXCLUSION, PROTECTION, PRIVACY SECURITY, RETAINMENT OR AESTHETICS. ~~[or stopping and/or creating an obstacle to pedestrian crossings; and consisting of a section or sections of any type of fencing material, chain, railing, arbor, trellis, blocks, bricks, stones, wood, iron, wire, plastics, concrete or any other building~~



~~or construction material or natural material; provided, however that a structure which is solely for decorative purposes shall not constitute a fence, as long as such structure does not exceed four feet in height, and provided that such structures on any residential lot do not, in total, consist of more than two eight-foot sections, with each section located at least 12 feet from the other. The length of the materials shall be measured at their longest point. Such decorative structures shall be landscaped along their total length with bushes, shrubs, plants or flowers. "Fence" does not include an arbor or trellis that is less than eight feet in length, and does not include underground, invisible animal restraint barriers.]~~

#### FRONT YARD

~~Front yard area shall be that area EXTENDING ACROSS THE WIDTH OF A LOT BETWEEN [a publicly dedicated right of way or private right of way or parking lot]THE FRONT STREET LINE and the NEAREST PART OF THE MAIN BUILDING (OR ITS ENCLOSED OR COVERED PROJECTION).[front building restriction line extending from side to side on the property. If the main structure on the lot is not contiguous with the front building restriction line, then the front yard is that area between the front of the main structure and the publicly dedicated right of way or private right of way or parking area, extending the full width of the lot. Front yard shall include the apparent front yard, and the side, side street and rear yards of any such lot shall be determined by their relationship to the apparent front yard of the lot.] IN A THROUGH OR CORNER LOT, ALL YARDS ABUTTING STREETS ARE FRONT YARDS.~~

#### GARDEN FENCE

A FENCE OF UP TO FOUR FEET IN HEIGHT ENCLOSING AN AREA USED FOR NON-COMMERCIAL GROWING OF PLANTS, HERBS, VEGETABLES, FRUITS OR FLOWERS.

#### HEIGHT

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

#### LOT

A DESIGNATED AREA OF LAND TO BE USED, DEVELOPED, OR BUILT UPON AS A UNIT IN ACCORDANCE WITH THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, AND HAVING THE MINIMUM CONTIGUOUS AREA REQUIRED FOR A LOT IN THE APPLICABLE ZONE, AND FRONTAGE ON A PUBLIC STREET OR PRIVATE ROAD, RIGHT-OF-WAY, OR EASEMENT.

LOT, CORNER

A LOT WHICH HAS TWO INTERSECTING SIDES ABUTTING ON A PUBLIC STREET.

LOT, THROUGH

A THROUGH LOT IS AN INTERIOR LOT FRONTING ON TWO (2) OR MORE STREETS OR A CORNER LOT FRONTING ON THREE (3) OR MORE STREETS.

LOT LINE, FRONT

THE FRONT LOT LINE IS THE LINE RUNNING ALONG THE FRONT OF THE LOT AND SEPARATING IT FROM THE STREET. THE FRONT LOT LINE MAY ALSO BE REFERENCED AS THE FRONT STREET LINE.

LOT LINE, REAR

A REAR LOT LINE IS THE LOT LINE GENERALLY OPPOSITE OR PARALLEL TO THE FRONT LOT LINE.

LOT LINE, SIDE

A SIDE LOT LINE IS ANY LOT LINE OTHER THAN A FRONT OR A REAR LOT LINE. A SIDE LOT LINE SEPARATING THE LOT FROM A STREET IS A SIDE STREET LINE.

MATERIALS INCORPORATING OPENNESS

TO SATISFY A REQUIREMENT THAT 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.

REAR YARD

~~[Rear yard area shall be that area of a residential lot between the rear of a main structure and the rear lot line, extending between the side yards, with the exception that, if a rear lot line abuts a publicly dedicated right of way, private right of way or parking area (excluding through corner lots, as defined herein), the rear yard shall extend the entire width of the rear lot line.]~~ REAR YARD AREA SHALL BE THAT AREA EXTENDING ACROSS THE WIDTH OF THE LOT BETWEEN THE REAR LOT

LINE AND THE NEAREST PART OF THE PRINCIPAL BUILDING (OR ITS ENCLOSED OR COVERED PROJECTION).

#### RETAINING WALL.

A WALL BUILT TO RETAIN OR SUPPORT THE EXISTING LATERAL PRESSURE OF EARTH OR WATER OR OTHER SUPERIMPOSED LOAD.

#### ~~[SIDE STREET YARD~~

~~Side street yard shall be that area of a residential lot on a corner or through corner lot which is not the apparent front yard, but which abuts a publicly dedicated right-of-way, private right-of-way or parking area.]~~

#### SIDE YARD

~~[Side yard shall be that area that is not part of the front yard or rear yard, and which is behind the building restriction line.]~~ SIDE YARD SHALL BE THAT AREA BETWEEN THE SIDE LOT LINE OR SIDE STREET LINE AND THE NEAREST PART OF MAIN BUILDING (OR ITS ENCLOSED OR COVERED PROJECTION), EXTENDING FROM THE FRONT YARD TO THE REAR YARD, OR IN THE ABSENCE OF EITHER OF THESE YARDS, TO THE FRONT STREET LINE AND THE REAR LOT LINE. IN A THROUGH LOT, ANY YARD THAT DOES NOT ABUT A STREET IS A SIDE YARD

#### STREET

A STREET, AVENUE, RIGHT-OF-WAY, ROAD, HIGHWAY, THOROUGHFARE, LANE AND ALLEY.

#### ~~[THROUGH CORNER LOT~~

~~A residential lot that abuts a publicly dedicated right-of-way or private right-of-way or parking area on three sides. For through corner lots, one yard abutting a publicly dedicated right-of-way, private right-of-way or parking area shall be determined to be the apparent front yard as defined herein, and the other two yards abutting publicly dedicated rights-of-way or parking areas shall be side street yards.]~~

#### YARD

OPEN SPACE LOCATED ON THE SAME LOT WITH A BUILDING, STRUCTURE (NOT INCLUDING GROUND-LEVEL PAVED SURFACES UNLESS SPECIFICALLY NOTED), OR USE, BETWEEN THE BUILDING, STRUCTURE OR USE (SUCH AS OUTDOOR STORAGE) AND THE NEAREST LOT LINE OR STREET LINE.



(2) ~~[Figure d]~~ Drawings illustrating the ~~[apparent front yard,]~~ front yard, side yard, rear yard, through ~~[corner]~~ lot, corner lot, visual obstruction setback and various types of fences are adopted and incorporated in this code by reference.<sup>1</sup>

C.~~[B.]~~ Front yard fences. Except as hereinafter provided, fences MORE THAN THREE FEET IN HEIGHT shall not be constructed or reconstructed in a front yard. FENCES UP TO THREE FEET IN HEIGHT, AND UP TO FOUR FEET IN HEIGHT AT THE REAR OF AN INTERIOR THROUGH LOT, CONSTRUCTED OF MATERIALS SUCH AS WROUGHT IRON, SPLIT RAIL, OR PICKET, INCORPORATING OPENNESS, MAY BE PERMITTED.

~~[D. Scope. This section shall apply to all new fences, walls or combinations constructed, reconstructed or replaced on residential properties in residential zones, except those allowed by approved conceptual site plans, detailed site plans and special exceptions, on or after the effective date of this section.]~~

~~[E. Rear and side yard fences. Fences in rear and side yards where the rear or side lot line is a continuation of the front yard line of the adjacent lot shall be set back 25 feet from the property line.]~~

D.~~[F.]~~ Retaining walls. Retaining walls ~~[built to retain or support the lateral pressure of earth or water or other superimposed load and otherwise designed and constructed of appropriate materials within allowable stresses and in conformance with acceptable engineering practices]~~ may be constructed where necessary in the front, side or rear yard, but shall not extend more than one foot above finished grade. ~~[Construction, d]~~ Dimensions, placement and materials for ~~[new]~~ retaining walls CONSTRUCTED AFTER OCTOBER 19, 2005 in locations otherwise requiring a fence variance ~~[is subject to approval]~~ SHALL BE DETERMINED by the Advisory Planning Commission. Landscaping up to a height of ~~[four]~~ THREE feet, OR A RAILING OR FENCE AS REQUIRED FOR HEALTH AND SAFETY REASONS BY PRINCE GEORGE'S COUNTY, may be placed as approved on retaining walls.

E. ~~[F.]~~ Existing fences. This section does not prohibit, OR REQUIRE A VARIANCE FOR, the reconstruction or replacement, with same dimensions and placement, of any fence or wall legally existing before ~~[the effective date of this section]~~ OCTOBER 19, 2005, or for which a variance has been granted; provided~~[however,]~~ that no such reconstructed or replaced fence or wall shall exceed ~~[four]~~ THREE feet in height in the front yard. UNLESS A VARIANCE IS OBTAINED, ~~[R]~~Replacement FRONT YARD fences MUST ~~[may]~~ be reconstructed of similar materials, or materials such as wrought iron, split rail, or picket, incorporating openness~~[and visibility]~~. Chain link may not be used for reconstruction IN THE FRONT YARD unless it was the ~~[original]~~ EXISTING material or a variance is obtained.

<sup>1</sup> Editor's Note: The ~~[figure]~~ drawings are on file in the City offices.

F.~~[G.]~~ Right of way and setbacks. In no event shall a fence be constructed to encroach into the public right-of-way or violate the visual obstruction setbacks required by Prince George's County Code Section 27-421, as amended, for corner lots.

G.~~[H.]~~ Prohibited materials. In no event shall a fence be constructed of barbed wire, electrically charged material, or other hazardous material.

H.~~[I.]~~ Fence construction. ~~[Where practicable,]~~ Fences shall be built with the finished side facing outwards AND STRUCTURAL SUPPORT (VERTICAL POSTS AND HORIZONTAL RAILS) SHALL FACE THE INTERIOR OF THE SUBJECT LOT.

I.~~[J.]~~ Permit required. A City permit is required for the construction, replacement or reconstruction on residential property of all fences as defined in this section. A PERMIT IS NOT REQUIRED FOR:

- (1) AN ARBOR OR TRELLIS THAT IS LESS THAN EIGHT FEET IN LENGTH THAT IS NOT BEING USED AS PART OF A FENCE.
- (2) UNDERGROUND OR INVISIBLE ANIMAL RESTRAINT BARRIERS.
- (3) DECORATIVE ROCKS AND BOULDERS.
- (4) GARDEN FENCES NOT EXCEEDING FOUR FEET IN HEIGHT AND NOT IN A FRONT YARD.
- (5) GARDEN FENCES CONSTRUCTED IN A FRONT YARD PROVIDED THAT THE AREA ENCLOSED BY THE FENCE DOES NOT EXCEED 25% OF THE FRONT YARD, WITH A MINIMUM AREA ALLOWED OF UP TO FOUR FEET BY SIX FEET. POLES, TRELLISES, COLD FRAMES AND OTHER GARDEN APPURTENANCES LOCATED WITHIN THE GARDEN ENCLOSURE ARE PERMITTED. FENCING MATERIALS ARE LIMITED TO OPEN WIRE MESH SUCH AS POULTRY NETTING, CHICKEN WIRE OR RABBIT GUARD. A GARDEN FENCE MUST BE REMOVED ONCE THE GARDEN IS NO LONGER IN CULTIVATION.

J. ~~[K.]~~ VARIANCES ~~[Appeals]~~.

(1) The Advisory Planning Commission shall apply the following criteria to any application for a variance from the provisions of this section:

- (a) A SPECIFIC PARCEL OF LAND HAS EXCEPTIONAL NARROWNESS, SHALLOWNESS, OR SHAPE, EXCEPTIONAL TOPOGRAPHIC CONDITIONS, OR OTHER ~~[There is an]~~ extraordinary situationS or conditionS that would support the request for a variance;
- (b) Denial of the variance would result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship UPON, ~~[to]~~ the owner;
- (c) Granting the variance will not impair the intent, purpose or integrity of the Fence Ordinance;
- (d) The variance is consistent with the design guidelines adopted for the Historic District, if applicable;

(e) ~~[The variance will not adversely affect the public health, safety, welfare or comfort;~~

~~(f)~~ The FRONT YARD fence for which a variance is requested incorporates openness as much as is practicable; provided, however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood-~~[- and]~~

~~[(g) The proposed construction, including setbacks, is characteristic of and consistent with the surrounding neighborhood. In neighborhoods where chain link is a characteristic material, alternate materials incorporating openness and visibility, may be permitted]~~

(2) Adjoining property owners shall be given written notice of any appeal by regular mail at least seven days prior to the hearing.

**Section 3. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and

Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall post at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, and on the City cable channel, and if time permits, in any City newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council.

The public hearing, hereby set for 7:30 P.M. on the 28<sup>th</sup> day of November, 2017, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard.

After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall post a fair summary of the Ordinance and notice of its adoption at City Hall, to the official City website, to the City-



maintained e-mail LISTSERV, on the City cable channel, and in any City newsletter. 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.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 14<sup>th</sup> day of November, 2017.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 28<sup>th</sup> day of November 2017.

**EFFECTIVE** the \_\_\_\_ day of \_\_\_\_\_, 2017.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: Janeen S. Miller  
Janeen S. Miller, CMC, City Clerk

By: Patrick L. Wojahn  
Patrick L. Wojahn, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

Suellen M. Ferguson  
Suellen M. Ferguson, City Attorney

## DRAWINGS

### Lots and Lots Lines

