



Request

An Ordinance to Amend Section 201 of the City Zoning Ordinance pertaining to fences or walls in setback, fences adjacent to sound walls and replacement of nonconforming fences.

Summary of Request

This amendment changes the existing fence ordinance to allow more flexibility in the location of privacy fences on corner lots and lots adjacent to sound walls. Additionally, this amendment changes the scope of repairs that can be made to a nonconforming fence. The specific changes are summarized below.

- The setback for a privacy fence for the side yard when adjacent to a street is reduced from the full setback distance (typically 20 or 30 feet) to ten feet. Where any fence is located within ten feet of the property line, category I landscaping is required to be planted along the fence.
- Aluminum is added as a material considered to be “maintenance free.”
- Privacy fence may be installed in the setback adjacent to a right-of-way when the property is directly adjacent to a sound-wall associated with a city, state or federal road project. The fence may not exceed four-feet in height if located between the front edge of the house and the street. Proper approvals from the Department of Public Works are required if the fence extends on to public property.
- A ten percent portion of a nonconforming fence may be replaced or repaired within a two year period (previously 50 percent). These repairs can consist of replacing fence boards only.

Recommendation

Staff recommends approval of this Ordinance, as this amendment provides more flexibility for homeowners regarding the placement of privacy fences on corner lots and lots adjacent to sound walls. This amendment provides reasonable setbacks for privacy fences, and will decrease the number of homeowners that currently have to go before the Board of Zoning Appeals.

1 AN ORDINANCE TO AMEND SECTION 201
2 OF THE CITY ZONING ORDINANCE
3 PERTAINING TO FENCES OR WALLS IN
4 SETBACK, FENCES ADJACENT TO SOUND
5 WALLS AND REPLACEMENT OF
6 NONCONFORMING FENCES

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8 Section Amended: § 201 of the City Zoning
9 Ordinance

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11 WHEREAS, the public necessity, convenience, general welfare and good zoning
12 practice so require;

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14 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA
15 BEACH, VIRGINIA:

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17 That Section 201 of the City Zoning Ordinance is hereby amended and
18 reordained to read as follows:

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20 **Sec. 201. - Yards.**

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24 (e) *Requirements for fences and walls.* Except as may be provided by the regulations
25 of the Oceanfront Resort District Form-Based Code, the following requirements
26 shall apply to fences and walls:

27
28 (1) Fences and walls shall not exceed a height of eight (8) feet. Walls and fences
29 may project into or enclose any part of any yard; provided, however, ~~that any~~
30 ~~fence or wall which projects into or encloses a required front or side yard~~
31 ~~adjacent to a street shall not exceed a height of four (4) feet~~ that any fence that
32 projects into or encloses a required front yard shall not exceed a height of four
33 (4) feet, and that any fence or wall which projects into or encloses a side yard
34 adjacent to a street shall not exceed four (4) feet in height when located within
35 ten (10) feet of the right-of-way except in the case of a through lot when a
36 required front yard setback is clearly and physically the rear of the dwelling, an
37 eight-foot fence will be allowed, and provided further that no No fence or wall
38 may be erected closer than five (5) feet to any right-of-way line, and where it is
39 closer than ten (10) feet or closer to any right-of-way line, it shall have installed
40 between it and the right-of-way line Category I landscaping shall be installed
41 between it and the right-of-way line.

42
43 (1a) Fences constructed of materials generally recognized on an industry-wide basis
44 as maintenance-free, such as vinyl and aluminum, may be located on a right-of-
45 way line, provided that (i) Category I landscaping shall be installed immediately
46 inside the entire length of any such fence; (ii) the height of any such fence shall

47 not exceed the limits set forth in subsection (e)(1) above; and (iii) any such
48 fence shall be no greater than fifty (50) percent opaque.

49
50 (1b) Fences or walls six feet or less in height, located on corner lots, may be
51 erected in the required side yard setback, provided that no such fence or wall
52 shall be closer than ten (10) feet to any right-of-way line. In addition, fences
53 ~~Fences~~ or walls six feet or less in height, located on corner lots, may be erected
54 in the required side yard setback, substantially parallel to the right-of-way line
55 located adjacent to the side yard, in line with the closest corner of any
56 nonconforming dwelling. The closest corner of the nonconforming dwelling shall
57 not include fireplaces, bay windows or similar amenities. No such fence or wall
58 may be erected closer than five (5) feet to any right-of-way line, and where it is
59 ~~closer than ten (10) feet~~ or closer to any right-of-way line, Category I
60 landscaping shall be installed between it and the right-of-way line and the
61 ~~fence.~~

62
63 (1c) Adjacent to a city, state or federal road project sound-wall directly adjacent to
64 and substantially parallel to a right-of-way, fences or walls located within thirty
65 (30) feet of the right-of-way adjacent to the sound-wall may be placed up to the
66 right-of-way line directly behind the sound-wall provided that (i) such fences or
67 walls shall not exceed eight (8) feet in height, (ii) such fences or walls shall not
68 be installed within the right-of-way unless all necessary permits and approvals
69 are obtained from the Department of Public Works, and (iii) no such fence or
70 wall exceeding four (4) feet in height shall be permitted within the front yard
71 setback in front of the wall closest to the dwelling.

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75 (6) No nonconforming fence or wall located within thirty (30) feet of, and
76 substantially parallel to, any public right-of-way shall be enlarged, extended,
77 relocated, or reconstructed nor shall more than fifty (50) percent of any
78 nonconforming fence or wall be replaced within any two year period, or replaced,
79 except that minor repairs consisting only of fence boards, not to exceed ten (10)
80 percent of the total length of the nonconforming portion of the fence, may be
81 replaced within a two (2) year period, unless such fence or wall is brought into
82 conformity with the provisions of this section. . . .

83
84 Adopted by the Council of the City of Virginia Beach, Virginia, on the _____ day
85 of _____, 2017.

APPROVED AS TO CONTENT:



Barry Frankenfield
Planning Department

CA14091
R-3
July 6, 2017

APPROVED AS TO LEGAL SUFFICIENCY:



B. Kay Wilson
City Attorney's Office