

Council Agenda Report

Date: October 22, 2018

Submitted by: Odie Wheeler, Director of Public Works

Prepared by: Pat Escher, Division manager, City Planner

SUBJECT: Ordinance 1135 -- An Ordinance of the Commissioners of Cambridge, Maryland amending § 5.1.4 of the City's Unified Development Code ("UDC") to provide that: 1) fences shall not extend at a height exceeding six feet forward of the primary rear building façade; 2) fences extending forward of the primary rear building façade shall not exceed four feet in height subject to certain conditions; and 3) fences that have a side with exposed framing or similar features shall orient that side internal to the site; providing that the title of this Ordinance shall be deemed a fair summary and generally relating to fences in the City of Cambridge.

Recommendation: That Council:

- A. Introduce Ordinance No. 1135 by reading of title only; and
- B. Schedule November 13, 2018 for second reading, public hearing and adoption of Ordinance No. 1135.

PLANNING COMMISSION RECOMMENDATION: Planning Commission is recommending that City Council approve the proposed amendments to the Unified Development Code.

DISCUSSION: This item was taken off the October 9th docket, as certain Commissioners wanted to discuss the item. Staff, the City Manager, and the Assistant City Attorney met with those Commissioners, who expressed concern regarding the 49% limitation size for the secondary house façade. When introduced, the proposed Ordinance would proceed to a public hearing and may be amended with the ability to increase the size of the secondary house façade in the rear of the property.

There are residences that do not have a straight, rectilinear rear yard façade; they have smaller areas in the rear of the structures that extend beyond the main portion of the building. The way the current UDC reads:

"No person shall erect between residences in any district a fence upon his or her property which shall exceed six feet in height, and such fence shall not extend at this height forward of the rear of the dwelling. Fences erected forward of the line of the rear of the building shall not exceed four feet in height..."

Staff has historically interpreted the "rear of the dwelling" to be the first portion of the building that extends across the rear façade of the building. In most cases that interpretation will work and

enclose the rear yard with a six-foot fence, but in cases where the building has a “bump out,” that interpretation would not allow for the six-foot fenced in area to include the “bump out” area. Staff believes that this section of the UDC should be clarified and that the rear of the building should be the rear of the primary rear façade as demonstrated in the graphic shown in Subsection (D) of the proposed Ordinance. Additionally, the Planning Commission wanted to add language that would require the architecturally improved side of a fence to face outward.

Fiscal Impact: NA

Enforcement: Department of Public Works/Planning and Zoning

Approved by: Patrick Comiskey, City Manager

ORDINANCE NO. 1135

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AMENDING § 5.1.4 OF THE CITY'S UNIFIED DEVELOPMENT CODE ("UDC") TO PROVIDE THAT: 1) FENCES SHALL NOT EXTEND AT A HEIGHT EXCEEDING SIX FEET FORWARD OF THE PRIMARY REAR BUILDING FAÇADE; 2) FENCES EXTENDING FORWARD OF THE PRIMARY REAR BUILDING FAÇADE SHALL NOT EXCEED FOUR FEET IN HEIGHT SUBJECT TO CERTAIN CONDITIONS; AND 3) FENCES THAT HAVE A SIDE WITH EXPOSED FRAMING OR SIMILAR FEATURES SHALL ORIENT THAT SIDE INTERNAL TO THE SITE; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO FENCES IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-204 and § 2.2.3 of the Unified Development Code (the "UDC"), the Commissioners of Cambridge are authorized and empowered to amend, supplement, change, modify, and repeal the City of Cambridge's (the "City") zoning regulations and boundaries and change the City's zoning classifications; and

WHEREAS, pursuant to § 3-27(1) of the Charter of the City of Cambridge (the "Charter") and Md. Code Ann., Local Gov't § 5-202(5), the Commissioners of Cambridge are authorized and empowered to pass ordinances for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein; and

WHEREAS, following a public hearing held on September 4, 2018, the City of Cambridge Planning Commission (the "Planning Commission") unanimously recommended that the Commissioners of Cambridge approve a text amendment amending § 5.1.4 of the UDC to provide that: 1) fences shall not extend at a height exceeding six feet forward of the primary rear building façade, 2) fences extending forward of the primary rear building façade shall not exceed four feet in height subject to certain conditions; and 3) fences that have a side with exposed framing or similar features shall orient that side internal to the site; and

WHEREAS, on _____, 2018, the Commissioners of Cambridge held a public hearing regarding the foregoing text amendment recommended by the Planning Commission, notice of which was published on _____, 2018 and _____, 2018 in the Star Democrat, a newspaper of general circulation in the City, in accordance with Md. Code Ann., Land Use § 4-203(b) and § 2.2.3.C of the UDC; and

WHEREAS, having considered the recommendations of the Planning Commission and the Department of Planning and Zoning Staff, as well as the comments made during the _____, 2018 public hearing, the Commissioners of Cambridge find that it is in the best interest of the City to amend § 5.1.4 of the UDC to provide that: 1) fences shall not extend at a height exceeding six feet forward of the primary rear building façade, 2) fences extending forward of the primary rear building façade shall not exceed four feet in height subject to certain conditions; and 3) fences that have a side with exposed framing or similar features shall orient that side internal to the site; and

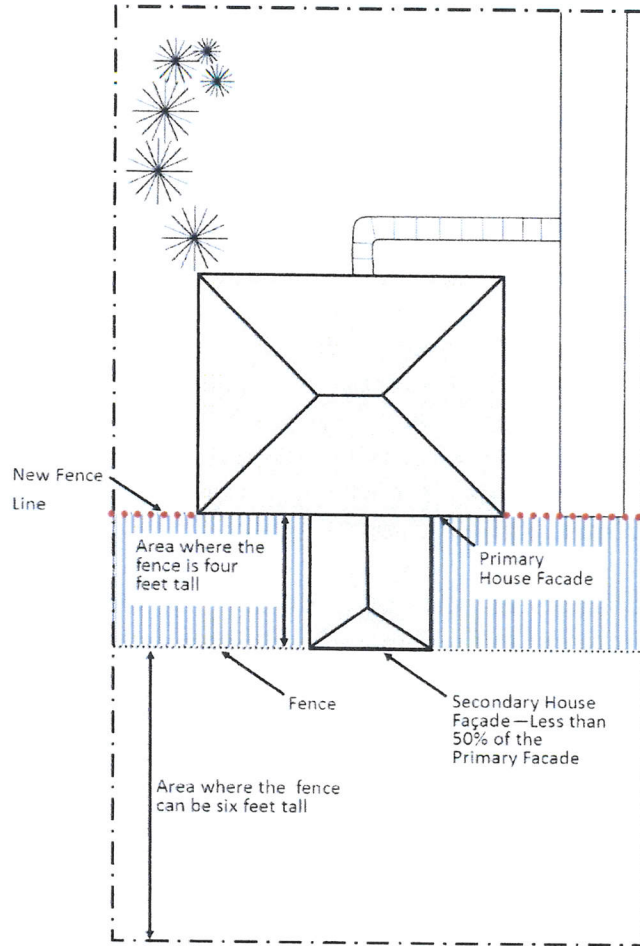
WHEREAS, the Commissioners of Cambridge find that the text amendment set forth herein is necessary to promote and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that the City's Unified Development Code is hereby amended as follows:

SECTION 1. Section 5.1.4 (Fences and Walls) is amended as follows:

§ 5.1.4 Fences and Walls

- A. UNCHANGED
- B. UNCHANGED
- C. Application for Permit – Any person or persons, corporation, firm or association intending to erect a fence or wall shall, before any work is commenced, make application for permit. Application shall be accompanied by a plan or sketch showing the proposed location of any fence, the material proposed to be used, which must be in accordance with this Ordinance and be accompanied by an appropriate fee. Upon approval by the Zoning Official, a permit shall be issued which will be in effect for a period of **one hundred eighty** (180) days from the date thereon.
- D. No person shall erect between residences in any district a fence upon his or her property which shall exceed six **(6)** feet in height, and such fence shall not extend at this height forward of the **primary** rear **building façade** of the dwelling. Fences erected forward of the line of the **primary** rear ~~of the building~~ **façade** shall not exceed four **(4)** feet in height as long as said fence does not obstruct vision from one side to the other and shall extend to a point not closer than six **(6)** feet to the established curb line unless the sidewalk line has been established, and in such cases the fence shall be extended no closer than six **(6)** inches to the established sidewalk line, and, in the event a solid or obstructed vision fence is erected, the final **twenty-five** (25) feet to the sidewalk shall be no higher than three **(3)** feet. It is the intention of this subsection that visibility be maintained near the sidewalk for safety purposes, and the same shall not be unduly obstructed by planting shrubs, etc.



E. UNCHANGED

F. UNCHANGED

G. **Fences that have a side with exposed framing or similar features shall orient that side internal to the site.**

H. UNCHANGED

I. UNCHANGED

J. In those cases, where the rear or side of a corner lot abuts upon a residential lot where the erection of a six **(6)**-foot-high fence would block the vision of side windows of the adjoining residence, a fence no higher than four **(4)** feet may be erected.

K. UNCHANGED

L. UNCHANGED

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the UDC is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. With respect to the substantive provisions of this Ordinance set forth in Section 1, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of Cambridge that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of passage.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Patrick C. Comiskey, City Manager

By: _____
Victoria Jackson-Stanley, Mayor

Introduced the ___ day of _____, 2018
Passed the ___ day of _____, 2018
Effective the ___ day of _____, 2018