



# COMMUNITY DEVELOPMENT DEPARTMENT

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Planning • Zoning • Building Safety • Construction Inspection Services • Public Health • Housing Inspections • Code Enforcement

## MEMORANDUM

**To:** Planning & Zoning Commission

**From:** Andrew Fangman, Assistant Community Development

**Date:** May 12, 2020

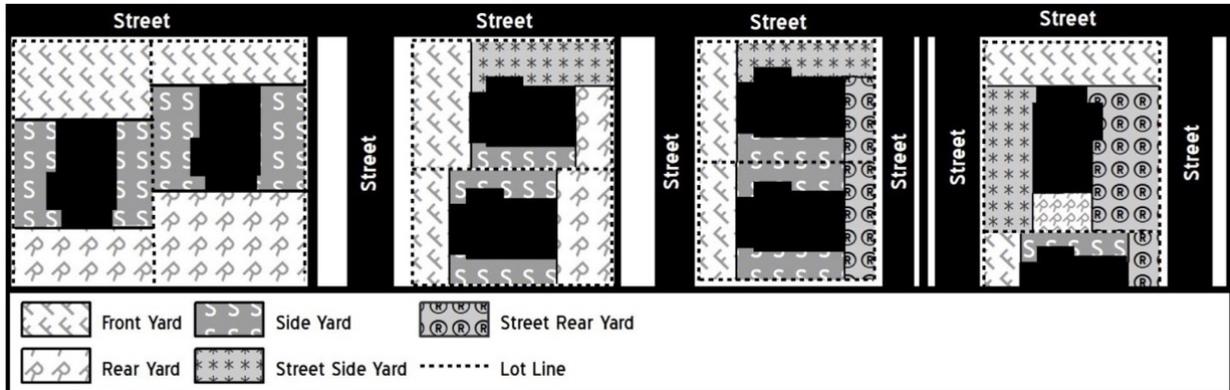
**Re:** An Ordinance Correcting a Drafting Error in Section 10-22-1(B)(5)(b) of City Code, Maximum Fence Height in the Portion of the Street Side Yard that is Less than Six Feet from the Public Right of Way

On April 6, 2017 a major revision of the Zoning Ordinance was adopted. Included in this revision were major changes to regulations regarding fencing. The intent of fencing regulations is to balance the safety and aesthetic needs of the community as whole, with the need for property owners to create a more private outdoor space through the use of visual screening. For many lots that front more than one street, like corner lots, the previous regulations made it nearly impossible for some property owners to create a usable outdoor space that is not visible from the street. This is because under the previous rules any fence that was within 25 feet of any street could not exceed 3 feet in height, unless was an open type of fence (at least 75% open), such as chain link, this resulted in numerous properties in which there was no a very little portions on which a solid fence over three feet in height could be constructed.

These regulations were revised with the intent of striking a better balance between the competing needs of safety and aesthetic needs of the community as whole, with the need to give residents the ability to create a more private outdoor space. This was accomplished by creating for parcels adjoining more than one street, a new definition of a front yard; and definitions for “street side yards” and “street rear yards”. The intent of the 2017 revision to was to establish the maximum height for solid fences (those fences more than 25% opaque) in street side yards as follows:

### Distance from property line

- Within 6 feet of the property line: 3'
- Between 6 feet and 25 feet of the property (or the distance to the building line, whichever is less): 4.5'
- Beyond 25 from the property or the distance to the building line (whichever is less): 6'



It has recently come to light that there was a drafting error in the 2017 revision to the Zoning Ordinance, as such City Code does not correctly implement the intended changes to fencing regulations. Currently Section 10-22-1(B)(5)(b), which regulates maximum fence height for areas of a street side yard that are less than 6 feet from the property line, reads as follows:

**5. Street Side Yards:**

- a. All portions of a street side yard that are more than 25 feet from the street side lot line: 6 feet
- b. Portion of street side yards that are less than 6 feet from the street side lot line:
  - i. Fences that are more than 25% opaque: 6 feet.
  - ii. Fences that are less than 25% opaque: 3 feet.

The maximum fence heights in subsections (i) and (ii) of Section 10-22-1(B)(5)(b) were inadvertently reversed. As currently adopted in City Code, within the portion of street side yards that are located less than six feet from the public right of way, solid fences (fences that are more than 25% opaque) are permitted to be up to six feet height, but open fences (those fences less than 25% opaque), such a chain link fences, are permitted only be up to 3 feet height. This is the opposite of what the limits were intended to be. The proposed ordinance would correct this drafting error by making the following change to Section 10-22-1(B)(5)(b), of City Code.

- b. Portion of street side yards that are less than 6 feet from the street side lot line:
  - i. Fences that are more than 25% opaque: **3 feet.**
  - ii. Fences that are less than 25% opaque: **6 feet.**

Staff recommends approval of this ordinance as corrects a drafting error and allows of the for the intent of the 2017 revisions to the fencing regulations be fully implemented.