

Information Item

Date: January 31, 2018
To: The City Manager
From: Angela I. Carmon, City Attorney

Subject:
Development of standards for fences located on residential lots

Strategic Focus Area: Livable Neighborhoods
Strategic Objective: Improve Character and Conditions of Neighborhoods
Strategic Plan Action Item: No
Key Work Item: No



Mayor Pro Tempore Burke brought to my attention constituent concerns relating to tall, opaque and solid fences spanning the entire front yard of residential properties within her ward. I understand there may be fences of a similar nature in other neighborhoods throughout the city. Currently, there are no provisions in the City Code or the Unified Development Ordinance that address, in a comprehensive manner, the composition, installation, height, and maintenance of fences in residential zoning districts.

The Minimum Housing Code treats fences as an accessory structure and simply states that “all accessory structures, including detached garages, fences, and walls shall be maintained for the purpose in which it was intended.” For lots below the street or sidewalk level, the City Code provides that:

“It shall be the duty of every person owning any lot or land in the city which is so much lower than the grade of the street, sidewalk or highway on which it borders as to create a dangerous condition, or on which there is a dangerous condition by reason of a hole, excavation or other cause, to provide proper guards or a fence sufficiently high and strong to prevent persons from falling from the street or sidewalk into such lot or land.”

The Unified Development Ordinance contains a number of provisions relating to fences depending upon the use of the property. For example, there are fence requirements for storage & salvage yards, motor vehicle dismantling and wrecking yards, child day care (small and large) and swimming pools; however, there are no general code provisions regarding fences on residential lots. Consistent with the State Building Code, a fence over 6 feet in height requires a building permit.

I have looked at a number of fence related provisions from other North Carolina cities. The provisions tend to address a number of different issues, including but not limited to fence height, permitted and prohibited materials, and setbacks. The attached chart describes, generally, the fence provisions from other jurisdictions. Since this is a matter of concern that applies city wide, I would welcome additional input and direction regarding: (i) the specific concerns that should be addressed in a draft ordinance and (ii) enforcement options for addressing problem properties.