



PLANNING & DEVELOPMENT DEPARTMENT
Neighborhood Services Division
PO Box 2169 MC 1525
Colorado Springs, CO 80901
(719) 444-7891

NOTIFICATION OF FENCE HEIGHT ZONING REGULATION

September 14, 2020

SUROFCHEK DAVID T, SUROFCHEK AMY
21 MARLAND RD
COLORADO SPRINGS CO, 80906-4328

RE: 21 MARLAND RD, COLORADO SPRINGS CO, 80906-4328– Fence Regulations - Case # 2008453
Parcel Identification Number: 7436404006; Property zoning: R-Estate (Residential)

Dear Property Owner,

A complaint has been filed alleging the fence constructed along the north property line of your property is in violation of the City of Colorado Springs zoning regulations for setback requirements.

Fences, walls, or posts six-feet (6') or under in height may be placed anywhere on the property except within established preservation areas. However, a fence located within 3' feet of retaining wall is measured from the bottom of the retaining wall to the top of the fence. For example, a 6' fence on top or next to a 3' retaining wall is considered a 9' tall fence and must meet the required setback for the zoning designation of the property – see attached Development Application Bulletin 304.

Fences or walls over six feet (6') are considered accessory structures and must meet accessory structure setback and height requirements identified in subsection 7.3.105.A (Accessory Uses And Structures) of zoning regulation code. The property is zoned, R-Estate (Residential), which requires fences, walls, or posts over six feet (6') to be placed no closer than ten-feet (10') from the side property line.

A field inspection indicates the fence and retaining wall is exceeding 6' in height. Therefore, this letter is our request for your voluntary cooperation in resolving this zoning violation by doing one of the following:

1. Lowering the height of the fence in order to meet the 6' height requirement of the retaining wall and fence combination or removing the fence. Another option is to move the fence 3' away from the retaining wall.
2. Contacting the City of Colorado Springs, Planning Department to schedule a pre-application meeting with a City Planner to discuss the possibility of a variance. You must schedule a pre-application meeting on-line by going to www.coloradosprings.gov/planning. For general questions, contact City Planning at 719-385-5905. Please understand, meeting the justification for a variance is challenging.
 - Before contacting City Planning, please review the variance requirements on the following page.

I am asking that you bring the property into compliance with the zoning regulations by September 28, 2020, to ensure that this matter is not advanced to the next level of enforcement. I may be reached at 719-444-7890 or you may reach me by e-mail at twasinger@springsgov.com.

Additionally, property owners, whether knowingly or unknowingly, are responsible for the abatement of zoning code compliance on their property. I have included a pre-application form for your convenience.

Sincerely,

Tom Wasinger
Code Enforcement Supervisor

Nonuse Variance Application Requirements

REVIEW CRITERIA: Applications for nonuse variances must meet all of the criteria listed in the Zoning Code before an application can be approved. As a guide to applying any of the criteria for nonuse variance applications, the applicant may consider any or all of the following circumstances in determining whether the applicable criteria have been met:

1. Extraordinary or Exceptional Conditions:

- a. The physical conditions of the property shall not be conditions general to the neighborhood or surrounding properties.
- b. The unique physical conditions of the property may be its size, shape, locations, topography, soils; or,
- c. The unique physical conditions of the property may be the size or location of existing structures on the property if such structures are not self-imposed conditions; or
- d. The unique physical conditions may be certain on-site or off-site environmental features which may positively or negatively affect the property in question, including but not limited to, adjacent land uses, traffic, noise, views and location of significant natural, architectural, or historic features.

2. No Reasonable Use:

- a. The demonstrated extraordinary or exceptional physical conditions of the property must directly relate to the inability to reasonably use the property in conformance with the applicable zoning ordinance regulations.
- b. The concept of less reasonable use may be considered if a neighborhood standard exists and if it is demonstrated that the property in question has a less reasonable use by comparison with proximate and similar properties in the same zoning district.
- c. The purchase price of the property, the desire for greater economic return on investment or mere inconvenience do not constitute, by themselves, evidence of no reasonable use.
- d. Self-imposed conditions such as prior voluntary rezoning, platting, or building in violation of City codes and ordinances do not constitute evidence of no reasonable use.
- e. Knowledge, or lack of knowledge, of zoning restrictions and physical site constraints at the time the property is purchased is immaterial to evidence of no reasonable use of the property.

3. No Adverse Impact:

- a. The granting of a variance shall not be detrimental to public health, safety and welfare or injurious to surrounding properties.
- b. The granting of a variance shall not be inconsistent with any plans adopted by the City.
- c. The granting of a variance shall not weaken the general purpose of the Zoning Ordinance or its regulations.
- d. The variance, if granted, shall only be to the extent necessary to afford a reasonable use of property.

Development Application Review Fee Schedule Effective February 1, 2017

Variances:	
Non-Use Variance or Administrative FBZ Warrant	\$575 for <u>each</u> of the first two variances; \$290 for each variance thereafter

Fencing

DAB

Building and Developing

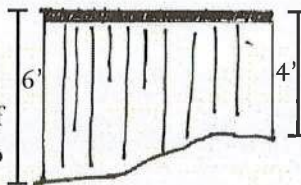
304

Development Assistance Bulletin

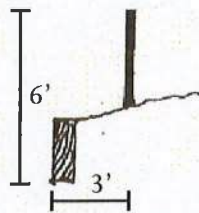
Fence Permitting

Within the City of Colorado Springs fences no higher than six (6) feet are allowed to be constructed anywhere on a property without obtaining a building or fence permit through the Regional Building Department (RBD), except within established preservation areas. Fences may even be constructed on a property line. For more information about property lines, consult [DAB 102](#).

Fence height is measured from the top of the fence including fence poles, posts, and finials to the finished grade on both side of the fence. If the height of the two (2) sides varies, then the larger shall be used in determining the height of the fence.



When located within three (3) feet of the face of a retaining wall, height is measured from the top of the fence to the finished grade at the bottom of the retaining wall.



The finished grade of the fence area shall not be altered to artificially comply with these regulation.

If a fence is greater than six (6) feet in height, it is treated as an accessory structure and is required to meet the following accessory structure setbacks and height limit:

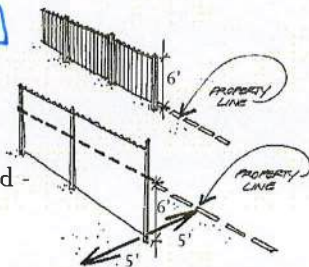
10 ft. - A, R-Estate, R1-9000

5 ft. - R1-6000, R2, R4, R5,
SU, OR, C5, C6, M1

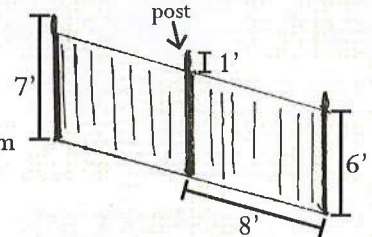
0 ft. - M2

5 ft. unless otherwise specified -
PUD, TND

Height limit: 8'



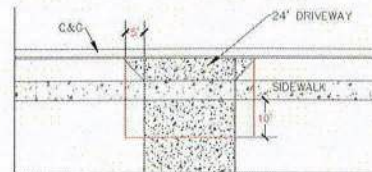
An additional 12 inches of height is permitted for fence posts, poles, and finials when spaced 8 feet (8) or more from each other



Safety First: Sight Visibility Regulations

Fences are required to comply with all Sight Visibility regulations found in the [Traffic Criteria Manual](#). Sight Visibility regulations relating to intersections can be found in Table 1, Section 4.4.

For residential properties, fences and other solid items should not be placed within five (5) feet on either side of the driveway and within ten (10) feet of the back of the sidewalk. For questions regarding sight visibility, contact Traffic Engineering at (719) 385-5908.



Call Before You Dig

Before you dig your post-holes, it is a good idea to locate your utility lines. Call *811 for a free utility locate. If you do not have your utility lines located before you dig and you happen to hit a buried utility line, you are responsible for the damage.

Additional Information

- ☑ For questions regarding permitting, contact the Regional Building Department at (719) 327-2880.
- ☑ For questions regarding sight visibility requirements, contact Traffic Engineering at (719) 385-5908.
- ☑ For questions on locating your property lines, consult DAB 102 and contact a Licensed Surveyor.

Created January 23, 2017

City of Colorado Springs
Planning & Community Development
Land Use Review Division

30 S. Nevada Avenue, Suite 105
P.O. Box 1575, MC 155
Colorado Springs, CO 80901-1575
(719) 385-5905

