

**ORDINANCE 2019-05**

**AN ORDINANCE BY THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES (ZONING), APENDIX A, ARTICLE XII, ADMINISTRATION, ENFORCEMENT, PENALTIES AND REMEDIES, SECTIONS 1304, 1305, 1306 OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA**

**BE IT ORDANINED BY THE MAYOR AND COUNCIL OF THE CITY OF SMYRNA, GEORGIA**

**WHEREAS**, State law provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

**WHEREAS**, the Mayor and Council of the City of Smyrna are charged with the protection of the public health, safety, and welfare; and

**WHEREAS**, the Mayor and Council now wish to update the City of Smyrna Code of Ordinances regarding Appendix A, Article XII, Administration, Enforcement, Penalties and Remedies, Sections 1304, 1305, 1306 of the City's Zoning Ordinances

**NOW, THEREFORE**, the Mayor and Council of the City of Smyrna, pursuant to their authority, do hereby adopt the following amendments.

*Subsections of Section 501 of the Zoning Ordinance shall be amended to remove fencing regulations. The proposed sections shall read as follows (amended portions are underlined or deleted).*

**ARTICLE V. – GENERAL PROVISIONS**

Sec. 501.- Accessory uses and structures.

Accessory uses and structures shall be permitted in all zoning districts subject to conformance with the following conditions:

(501.1) Such structures and uses shall be located on the same lot as the principal building to which they are accessory.

(501.2) Such structures and uses shall not be permitted in a required front or side yard.

(501.3) Residential accessory uses and structures such as garages, greenhouses or workshops shall not be rented or occupied for gain.

(501.4) No accessory building shall be constructed upon a lot until construction of the principal building has commenced.

(501.5) When an accessory building is attached to the principal building by breezeway, passageway or similar means, it shall comply with the yard requirements of the principal building to which it is accessory.

(501.6) No garage or other accessory building shall be located closer than five feet to a rear lot line in a residential district. Where any nonresidential lot adjoins the rear of a residential lot, no accessory building on a nonresidential lot shall be located closer than 25 feet to the property line of the residential lot.

(501.7) No nonresidential accessory building shall be used by other than employees of the owner, lessee, or tenant of the premises.

(501.8) Accessory uses in an apartment development may include, but shall not be limited to, laundry facilities for the convenience of residents, which must be housed in a structure whose primary use is not for laundry purposes.

(501.9) Accessory use swimming pools having a minimum depth of two feet shall be permitted only upon written approval of the county health department to indicate compliance with applicable health department swimming pool regulations. Also, a woven wire (chainlink) fence or similar structure at least four feet in height shall be placed around the pool and any gate opening to the exterior of the property shall be equipped with a bolt latch operated from the inside of the fence. If the rear yard in which the pool is located is already fenced, such fence shall be deemed adequate if the height and gate locking features are in conformance with the above provisions. These regulations shall apply only to a permanent type pool attached to or within the ground.

(501.10) Reserved.

(501.11) Accessory structures will be limited to one per lot. The size of the accessory structure will not exceed one-fourth the total square footage of the principal building. The accessory structure will be built with materials and style similar to the principal building or any material and style commonly associated with an accessory structure. The height shall not exceed 15 feet. Structures or buildings commonly transported, with or without axles and/or wheels, and/or built upon a metal frame for transport, including but not limited to a receiver tongue for transporting, shall not be used as an accessory use or structure.

(501.12) Individual parcels five acres or larger shall not be subject to the aforementioned accessory use restrictions. A maximum of five accessory structures may be built, provided that a minimum distance of 20 feet from any other structure is maintained and that they shall not be closer than 100 feet from any property line. Accessory structures shall not exceed height limitations established for the zoning district in which they are built.

(501.13) A satellite antenna, including any structural supports, is permitted as a conditional use, provided the following requirements are complied with:

1. A satellite antenna is only permitted as an accessory use on a lot that contains a principal structure.
2. A satellite antenna is only permitted in a rear yard.
3. A satellite antenna is only permitted as a freestanding structure.
4. Every satellite antenna shall be effectively screened by a special planting screen or fence as approved by the planning board, which shall be maintained in good condition so that said antenna shall not be visible from any adjacent property or public street.
5. A satellite antenna shall not be closer to the rear property line than the height of said antenna nor closer to any side property line than the height of said antenna or the side yard setback requirement for the principal structure on the lot, whichever results in the greatest setback.
6. Any permitted satellite antenna shall not have a surface receiving area greater than 80 square feet.
7. No lot may contain more than one satellite antenna as heretofore regulated.
8. No satellite antenna shall exceed a height of 15 feet.
9. Every satellite antenna shall be of black mesh metal construction.

(501.14) A direct satellite system, DSS, including any structural supports is permitted as a conditional use, provided the following requirements are complied with:

1. A DSS antenna is only permitted as an accessory use on a lot that contains a principal structure.
2. A DSS antenna is only permitted in the rear yard or attached to the rear wall or rear roof of a principal structure.
  - a. A rear roof of a structure is defined as any portion of a roof from the peak or ridge point sloped toward the rear building setback line and which plane cannot be seen from the street adjacent to the front yard setback line or side yard setback line in the case of a corner lot.
  - b. A rear wall of a structure is defined as the plane of a structure facing the rear building setback line and to the front yard setback line or side yard setback line in the case of a corner lot.
3. A DSS antenna shall not have a radius larger than 18 inches in a residential district and 36 inches in a commercial district.
4. There shall be only one DSS antenna per building or one DSS per tenant of a multiple tenant building.
5. The DSS antenna shall not exceed four feet vertically or horizontally from its mounting point for residential applications and shall not exceed seven feet vertically or horizontally from its mounting point for commercial applications.
6. The DSS antenna shall be of a color that will blend into its surroundings.

(501.15) Reserved.

(501.16) Special land use permit for television, land mobile, communication, microwave, and radio transmission antennae and towers.

1. General.

- (a) Height limitations: The height limitations set forth in this ordinance applicable to buildings and structures shall not apply to towers and antennae which shall be governed by the special use permit procedure set forth herein.
- (b) Tower height threshold: These standards shall only be applicable to antennae and towers in excess of 25 feet in height.
- (c) The city council may consider for approval a site plan specific request which is in substantial conformance with the requirements listed herein.

2. Special Use Permit.

Special land use permit shall be required for all television, land mobile, communication, microwave, and radio transmission antennae and towers.

3. Requirements.

- (a) All towers and antennae in excess of 70 feet must be set back a distance of at least the height of the tower from any adjoining off-site structure.
- (b) At the time of filing the application for a tower, the applicant shall provide a site plan and information regarding topography, coverage zone, and tower height requirements.
- (c) Shared usage of towers/antennae is encouraged, and towers should be designed to accommodate such uses.
- (d) Shared usage of towers/antennae facilities are also encouraged, and facilities should be designed to accommodate such uses.
- (e) Accessory structures shall be limited to usages associated with operation of the antennae or towers and shall be appropriate in scale and intensity.
- (f) All towers and antennae shall be equipped with an anti-climbing device such as a six-foot barbed strand fence or other appropriate devices to prevent unauthorized access.
- (g) All towers and antennae must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission or such governing agency guidelines as may be established from time to time. All towers and antennae must be updated and brought into conformity with such standards and regulations within six months of their adoption. The failure to comply with this provision shall be grounds for the City of Smyrna to require removal or repermitting of the antenna or tower at the owner's expense.
- (h) At the time application for building permit, the plans for tower or antenna construction shall be certified by an independent registered structural engineer as meeting all current safety and design standards of all applicable codes.

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- (i) Applicants are required to explore and fully utilize existing tower and antenna space.
- (j) No residentially used properties are permitted for tower locations.
- (k) Towers and antennae are encouraged to be located at a height above the tree line no greater than necessary to reasonably accommodate the facilities.
- (l) In addition, all such towers and antennae shall be designed to minimize visual scenic impact when located on a hill.
- (m) A tower may not be located closer than 1500 feet from an existing tower.
- (n) In addition to other regulations, tower/antennae and associated facilities must comply with section 1510(5), subsections (a) thru (k).

4. Grandfather Clause.

Any existing tower or location existing on the date of adoption of this ordinance shall be grandfathered and nonconforming and not required to meet the above requirements, but shall be subject to the other provisions of this ordinance.

5. Landscape Buffer/Screening Requirement.

Unless otherwise noted within this section's requirements, or otherwise approved by the city council, the special land use permit hearing, any structure associated with any commercial tower or antenna which abuts residentially zoned property shall have a minimum 50-foot setback from the residential property, 15 feet of which should be a landscaped, screening buffer between the tower and the residentially zoned property which will be subject to approval.

*Note:* Required buffers may be included within required setbacks; however, in such case that the required buffer is greater than the required setback, the required buffer shall be adhered to.

Additionally, necessary private utilities and/or access drives may be allowed through, over, or across a landscaped buffer. Any such uses which are proposed through, over, or across a designated, undisturbed buffer must be approved pursuant to an original site plan modification.

(a) *Objectives:* The above-required landscape screening buffer shall be implemented in connection with a permitted project and shall address the following objectives:

- i. Screening to enhance aesthetic appeal;
- ii. Control or direct vehicular and pedestrian movement;
- iii. Reduce glare;
- iv. Buffer noise;
- v. Establish privacy; and
- vi. Public health and safety.

- (b) *Standards:* The above-required landscape screening buffer is subject to review and approval by the City of Smyrna in accordance with the following standards:
- i. Plantings are to be a mix of rows of evergreen trees and shrubs, deciduous trees and taller evergreen trees;
  - ii. Species are to be ecologically compatible to site and appropriate for design situation;
  - iii. Unless public safety concerns dictate otherwise, buffers should provide maximum visual barrier;
  - iv. Minimum height of plant materials at installation is to be five feet for trees;
  - v. Fencing or walls are to be a minimum of six feet in height as approved by the City of Smyrna;
  - vi. Trees included in buffer plantings may be counted toward site density calculations as required by the City of Smyrna Tree Preservation and Replacement Ordinance, subject to review and approval of the City of Smyrna;
  - vii. Buffers shall be regularly maintained by the property owner(s) to ensure that the above objectives and standards are met;
  - viii. When topography and existing conditions allow, the required landscaped buffer should be an undisturbed buffer; provided, however, the buffer may be crossed by an access drive as shown on the site plan and/or necessary utilities;
  - ix. An appeals from determination by the City of Smyrna staff regarding the landscape buffer shall be to the mayor and city council.

(Ord. of 7-20-87 (87-20); Ord. of 2-5-90 (90-2), § 1; Ord. of 10-15-90 (90-36); Ord. No. 94-04, 3-28-94; Ord. No. 95-01, 2-6-95; Ord. No. 96-01, 1-16-96; Ord. No. 97-12, 11-3-97; Ord. No. 2005-39, 10-17-05)

*Article V of the Zoning Ordinance shall be amended to create a fencing section. The proposed sections shall read as follows (amended portions are underlined or deleted).*

## **ARTICLE V. – GENERAL PROVISIONS**

### **Sec. 503-A.- Fencing**

(503-A.1) No fence shall be more than eight feet in height, or be constructed in a public right-of-way.

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(503-A.2) In all cases, the finished side of a fence shall face adjoining properties and/or public right-of-ways. For purposes of this section, the finished side shall be defined as the side of the fence that contains no visible support structures, unless approved by the Community Development Director.

Examples of the finished side of a fence:



Examples of the unfinished side of a fence:



(503-A.3) Within any front yard, in all zoning districts, no chain link or similar woven wire fence shall be permitted. However, within a front yard in the aforementioned districts, a decorative or ornamental rail, split rail, picket, opaque, basket weave or similar fence constructed of wooden materials may be permitted provided that said fence does not exceed

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four feet in height. Columns comprised of brick, stone or similar material may be placed between fence sections in the front yard but still cannot exceed four feet in height. Decorative wrought iron shall also be permitted provided that said fence does not exceed four feet in height.

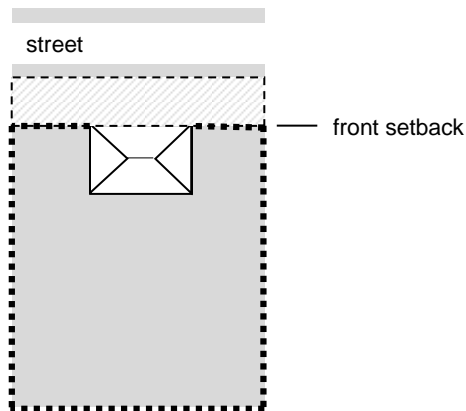
Examples of decorative fences:



**Interior Lot Fence**

▭ 4' max height

▨ 8' max height

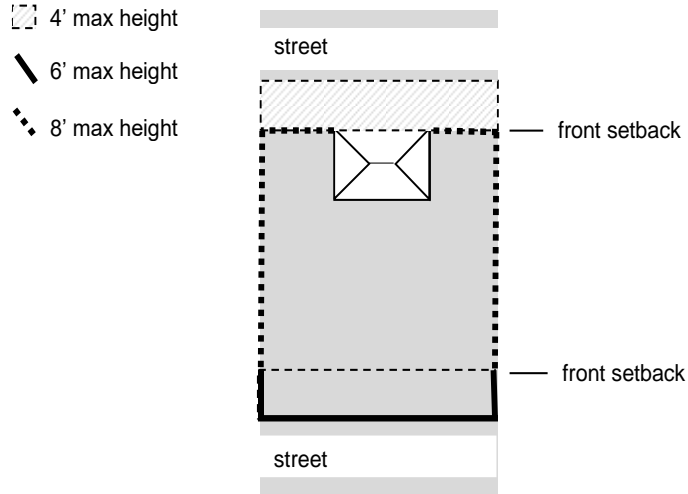




Except, whereas:

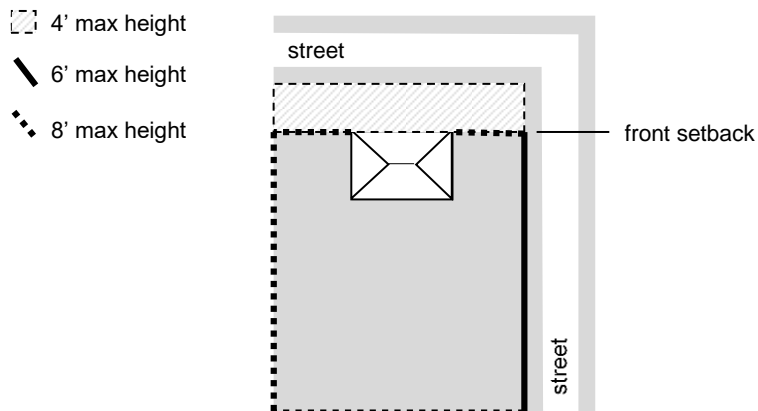
(503-A.3.1) Double frontage lots shall be allowed wooden and wrought iron fences (of ornamental or decorative nature) to be within the rear yard at a maximum of 6 ft in height. Rear yard here shall mean the yard to which the main structure does not face.

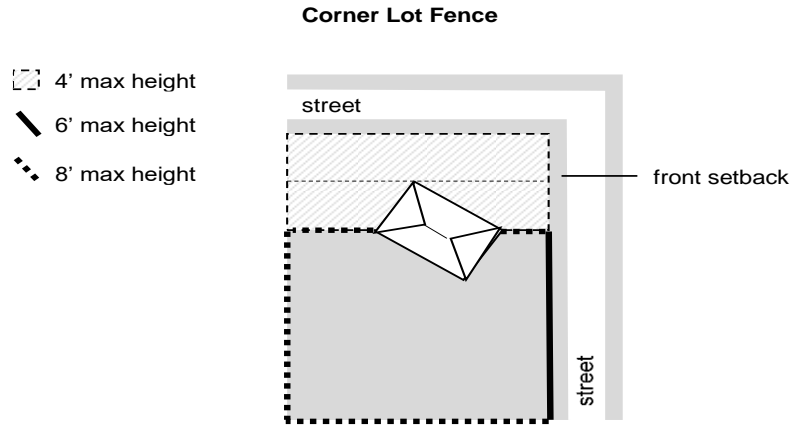
**Double Frontage Lot Fence**



(503-A.3.2) Corner lots shall be allowed wooden or wrought iron fences (of ornamental or decorative nature) along the side of property adjacent to the road at a maximum of 6 feet in height.

**Corner Lot Fence**





**Renumbering.** It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Smyrna, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

The above Ordinance was read and approved by the Mayor and Council of the City of Smyrna, Georgia, on the 18<sup>th</sup> day of February 2019.

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Max Bacon, Mayor

Attest:

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Terri Graham, City Clerk

SEAL

As to form:

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Scott Cochran, City Attorney