

CHAPTER 12

STREETS (MUNICIPAL INFRACTIONS)

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Section 12-101. Permit required for all fences.

- A. It shall be unlawful for any person to erect any fence on or around any property within the corporate limits of the City of Mount Rainier without a permit first had and obtained from the Mayor and City Council of Mount Rainier or their designee.
- B. This section shall apply to any fence constructed, reconstructed or replaced in its entirety on or after March 18, 1997. A fence shall not be reconstructed or replaced in its entirety, unless it complies with Section 12-102, even though a variance had been previously granted. In order for a fence for which a variance had been previously granted to be replaced or reconstructed in its entirety, either it must comply with Section 12-102 or a new variance must be sought from the Mayor and City Council pursuant to Section 12-103.
- C. For any fence constructed after March 1, 2006, the finished side of the fence shall face the public street, alley, or abutting property. For purposes of this section, the “finished side” of a fence is the smooth side or the side not containing structural supports. If structural elements are an integral part of the fence design, then such elements must be centered on the line of the fence and designed as part of the finished surface.
- D. All fences must be maintained in good, sound condition. Fences must be free of damage, breaks, and missing structural members.
- E. The maximum fence height specified in Section 12-102 shall not apply to property located in the Mixed-Use-Town-Center or Urban Light Industrial zones.

- F. Fences required as a condition for a non-conforming use by the Prince George's County Planning Board are not subject to the height regulations of Section 12-102 provided that the non-conforming use has been properly obtained with the full knowledge of the City. Any fence required as a condition for a non-conforming use by the Planning Board is required to have a City permit.
- G. All fences shall be located so as to comply with the Prince George's County Zoning Code. (Ord.3-2006, 02/07/2007)

Section 12-102. Maximum height of fences and yard definitions.

It shall be unlawful for the owner or the occupant of any premises in the City of Mount Rainier, except those located in zones excluded in Section 12-101, to erect any fence to exceed the height of four feet (4') in the front yard or street side yard and to exceed the height of six feet (6') in the side and rear yard. The height of the fence shall be measured from the existing finished grade at the adjacent public right-of-way. Any fence exceeding four feet (4') in height in the front yard or side yard, three feet (3') in height in the triangle formed by the intersection of the street lines and points on the street lines 25 feet from the intersection or six feet (6') in height in the side yard or rear yard requires a variance from the Mayor and City Council pursuant to Section 12-103.

The following definitions shall apply in the interpretation and enforcement of Sections 12-101, 12-102, and 12-103. The following apply to all lots in a block:

"Front yard" shall be defined as the lot area from the street curb line to the street front building wall of the structure where the primary entrance to the structure is located but does not include the street front building wall.

"Side yard" shall be defined as the lot area from the front building wall of the structure to the rear building wall of the structure and include both of these building walls. A side yard does not adjoin a street but may adjoin an alley.

"Rear yard" shall be defined as the area from the rear building wall of the structure to the rear property line but does not include the rear building wall of the structure. A rear yard does not adjoin a street but may adjoin an alley.

The following definition applies to corner lots in a block:

"Street side yard" shall be defined as the lot area from the side street curb line to the side building wall of the structure but does not include the side building wall.

"Corner lot obstructions" shall be defined as a visual obstruction more than three (3) feet

high (above the curb) located within the triangle formed by the intersection of the street lines and points on the street lines twenty-five (25) feet from the intersection (See the second figure following Sec. 12-103.)
(Ord. 4-97, 3/18/97)

Section 12-103. Procedure for fence height variance.

Whenever any fence is desired to be higher than four feet (4') in the front yard or street side yard as permitted by the preceding section, the owner of such premises may request a variance from the Mayor and City Council of Mount Rainier. A variance is required for any fence proposed to be constructed on top of a retaining wall in the front yard or street side yard if the height of the retaining wall combined with the proposed fence height is greater than 4'. The variance request shall be made in writing to the Mayor and City Council and shall contain a sketch of the property showing the location, height and materials of the proposed fence and a photograph of the property showing existing conditions. A public hearing shall be held on the request. The Mayor and City Council shall notify, in writing, any adjoining property owners regarding the nature of the variance request and the date of the public hearing at least fourteen (14) days prior to the hearing. The site of the requested variance shall be posted indicating the nature of the variance request and the date of the public hearing at least fourteen (14) days prior to the hearing.

In order for the variance to be granted, the Mayor and City Council shall find that an exceptional condition exists which would make the application of Section 12-102 as to height of the fence manifestly unreasonable due to a showing of hardship, unique topography, unusual circumstances or safety considerations. The Mayor and Council may also consider how the proposed location and height of the fence would impact the surrounding area in regard to the creation of a desirable unified and consistent building wall along a blockface. In addition, the Mayor and City Council shall grant a variance only if it finds that the variance:

- (a) will not adversely affect the public health, safety, welfare or interest, nor the reasonable use of adjoining properties;
- (b) will not violate any covenants applicable to the property;
- (c) can be granted without substantial impairment of the purpose and intent of the City building regulations;
- (d) will not interfere with or obstruct the visibility of motorists or cyclists; and
- (e) will not unduly impede the enforcement of any other applicable law.

Such consideration shall be recorded in the findings. The Mayor and City Council shall establish the height of the fence if they determine that the requested variance shall be approved.

The following illustrates the fence height allowed without benefit of a variance:
(Ord. 4-97, 3/18/97)

Section 12-104. Permit required for grading and construction in the public right of way.

A. Permit Required.

1. No person shall grade, construct, cut or excavate any street, road, highway, alley, driveway apron, sidewalk, right-of-way, curb or gutter or begin any of the work of such grading or construction, without first obtaining a permit from the City.
2. No person, including any utility company, shall cut any road or public right-of-way for the purpose of installing or connecting underground power, communication lines, water or sewer lines, cable television wires, or for any other purpose without first obtaining a permit from the City.
3. In the event of an unexpected repair or emergency, a utility company may commence such repair and emergency response work as required under the circumstances, provided that the utility company shall notify the City as promptly as possible of such repair or emergency work and shall obtain a permit from the City for such work as soon as possible.
4. A violation of this section and any regulations adopted to implement or enforce this section is a municipal infraction.
5. In addition to all other means of enforcement provided for by law and in this section, the City Manager, Public Works Director or designee, City Code Enforcement Officers or police officers may issue a stop-work order to any utility company or person who violates any provision of this section or any regulations adopted to implement or enforce this section. Any utility company or person who receives such a stop-work order shall immediately cease the work which constitutes the violation. The utility company or person shall comply with all terms and conditions imposed by the stop-work order before the work may resume.

B. Permit and inspection fees.

1. Before any street, sidewalk, gutter, curb or drainage project may be begun on a road or street or within the boundaries of a dedication to public use, the applicant for a permit to undertake the project shall pay a fee for road construction, right-of-way openings, pavement cuts, excavations, and other disturbance work within a public right-of-way of the greater of \$25.00 or the following:

- (i) For disturbance activities within the roadbed: \$.60 per linear foot.
 - (ii) For disturbance activities outside of the roadbed: \$.30 per linear foot.
2. In addition to the permit fee, a permittee shall reimburse the City, on an hourly basis, for reasonable engineering and staff expenses related to the review and inspection of construction within a public right-of-way. The hourly rates for such engineering and staff time shall be established by regulations promulgated by the City Manager or designee.
3. In all cases in this section, the City Manager or his/her designee may require that an escrow deposit or a bond to cover costs of possible damage or related problems to public property be paid to the Treasurer. The amount of the escrow deposit or bond shall be determined by the City Manager or his/her designee based on the project and shall be refunded after completion of the project with the approval of the City Manager or his/her designee.
4. The permit is non-transferrable and automatically expires in 6 months from the date of issuance unless extended by the City Manager or designee.
(Ord. 32-97, 1/6/98)

Section 12-105. Tunneling under public right-of-way prohibited without special approval.

No person shall tunnel under the roadway of any street or sidewalk or the surface of any improved alley without special permission from the mayor and city council of Mount Rainier.

Section 12-106. Approval of mayor and council required for construction over any public sidewalk.

It shall be unlawful, within the corporate limits of the City of Mount Rainier, Maryland, for any person or corporation to construct any driveway from a public street or alley to the property of such person or corporation, over any sidewalk of the City of Mount Rainier, except upon plans submitted to and approved by any agent or officer of the city duly appointed for that purpose by the mayor and city council.

Section 12-107. Permit required for erection of utility poles.

It shall be unlawful for any electric light company, telephone company or telegraph company to erect any poles, or relocate any poles, within the City of Mount Rainier without first obtaining a permit for that purpose from the mayor and city council. Such permit shall show the location of such pole and may refer to a stake previously placed to identify the location. All such permits shall

be issued without charge.

Section 12-108. Unlawful to deposit trash in the street or any public place.

A. It shall be unlawful for any person, firm or corporation to place or deposit any trash, litter, garbage, rubbish or debris on any street, alley, sidewalk, public right-of-way, park, or other public property, and in the drains or gutters of such streets, roads, or sidewalks within the City of Mount Rainier.

B. Any person responsible for the deposit of such trash, litter, garbage, rubbish or debris shall be subject to a municipal infraction with a fine of \$250.00 for each offense.

C. The City Manager is authorized to provide for the erection of signs on the public streets or other areas in the City prohibiting the deposit of trash and litter as provided in this section and stating the fine for a violation. (Ord. 01-2006, 03/07/6)

Section 12-109. Removal of snow, sleet or freezing rain.

It shall be duty of every person in charge or control of any building or parcel of land, located in the city, fronting or abutting on a paved public sidewalk, whether as owner, proprietor, tenant, occupant or otherwise, within twenty-four (24) hours after the ceasing to fall of any snow, sleet or freezing rain, to remove and clear away, or cause to be removed and cleared away, such snow, sleet or freezing rain from such public sidewalk as is in front of or abuts on said building or lot of land. It shall be unlawful to fail, neglect or refuse to comply with this section.

Penalty. Every person who shall neglect or refuse to comply will be fined fifteen dollars (\$15.00) for each incident.

Section 12-110. Unlawful to tamper with or remove barricades.

It shall be unlawful for any person to move, tamper with or fail to observe barricades erected for the protection of any street, alley or right-of-way which has been closed to traffic for the purpose of permitting coasting or for any other reason which the mayor and city council may deem proper.

The chief of police will direct the placing of barricades of such nature as is deemed sufficient for the protection of the public, whenever, in his opinion the temporary closing of any street, alley or right-of-way is necessary to furnish or ensure public safety. When streets are covered with snow or ice so as to afford opportunities for coasting, such streets as the police can protect shall be barricaded for such use and reasonable effort will be made to have persons use these protected streets and not use other streets where no protection is afforded.

It shall also be unlawful for any person to interfere with the use of such barricaded streets, alleys or right-of-way in any manner, or to do any act which will destroy the coasting surface such as spreading of ashes, salt or other substance across the surface.

§12-111 STREETS

§12-112

Section 12-111. Designation of a loading zone.

1. A loading zone is hereby designated of approximately 64' in length in the 3300 block of Bunker Hill Road at the northwest corner of the intersection with 34th Street.
2. The City Manager or designee is authorized to place and maintain appropriate signage to give notice of such loading zone and violation of such loading zone.
3. The loading zone be restricted to loading and unloading only from 7am-8pm, seven days a week.
4. Parking be allowed only between 8pm-7am, seven days a week.
(Ord. 7-97, 3/18/97)

Section 12-111A. Designation of signs prohibiting the deposit of trash.

The City Manager at the direction of the Mayor and Council, may designate certain areas in the City for the placement signs prohibiting the deposit of any items listed in Section 12-108. The signs shall indicate the amount of the fine for violation of the penalty in Section 12-112.

Section 12-112. Penalty.

Unless a different penalty is provided, any person, persons, firm, corporation or stock company violating any of the foregoing sections shall be issued a citation for a municipal infraction with a fine of Two Hundred Fifty Dollars (\$250). Each day the violation continues is a separate offense. (Ord 01-2006, 03/07/06)