



CORPORATION OF HARPERS FERRY, WEST VIRGINIA

ORDINANCE No. 2022-01

An ORDINANCE amending Part Thirteen of the Codified Ordinances of Harpers Ferry, setting requirements, restrictions, and certain exemptions for construction and replacement of fences and retaining walls; and setting regulations for temporary construction fencing.

[Introduced to Town Council by Ordinance Review Committee, 14 February 2022.]

Be it enacted by the Town Council of the Corporation of Harpers Ferry:

That Part Thirteen of the Codified Ordinances be amended and reenacted to read as follows:

**ARTICLE 1303
Project Permits**

1303.04 Site Plan Review.

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- (a) Purpose. The purpose of Site Plan Review is to prescribe a review procedure for Projects by which consistency with the 2007 Harpers Ferry Comprehensive Plan, as amended by Town Council from time to time, can be achieved.
- (b) When required. Site Plan Review shall be required for all Projects in which the Board of Zoning Appeals is deemed the Proper Authority under Section 1303.03 of this Article. If a Project that encompasses more than one Project Permit is subject to Site Plan Review and the applicant has been permitted to submit only one Project Permit application, such Project shall only be subject to one Site Plan Review. In all other cases, the Board of Zoning Appeals shall conduct a Site Plan Review for each Project Permit in which the Board of Zoning Appeals is deemed the Proper Authority under Section 1303.03 this Article.
- (c) Contents of Site Plan. If a Project is subject to Site Plan Review, the applicant for such Project shall submit a Site Plan to the Boarding of Zoning Appeals at the same time the corresponding Project Permit application is submitted. A Site Plan shall include, at a minimum, a scaled drawing of the Site or, if practical, photographs of the Site, either of which shall include, if applicable, the following:
 - (1) Lot Lines and Easements;
 - (2) Roof plan of any Structures;
 - (3) Location of existing and proposed Structures and permanent signs;
 - (4) Location of existing trees six inches or greater diameter at breast height, indicating which trees are proposed to be removed;
 - (5) Location of Off-Street Parking and any Loading Spaces;
 - (6) Location and dimensions of Street and Right-of-Way dedications;
 - (7) Location of points of entry and exits for vehicles and pedestrians and internal vehicle circulation patterns upon the property;

- (8) Location of any Fences and Retaining Walls, including an indication of their height and material of construction;
 - (9) Location of exterior lighting devices;
 - (10) Locations of all paved and Impervious Surfaces and Landscaped Areas; and
 - (11) Location(s) of temporary construction fence(s).
- (d) Additional requirements. Depending on the size and scope of the Project, the Board of Zoning Appeals may also require any or all of the following:
- (1) A grading plan, prepared by a registered Engineer licensed to practice in the State of West Virginia, for grading intended to support a Structure grading that will divert a Drainage course, showing:
 - A. Existing and proposed contours on the Site in increments of two feet;
 - B. Proposed storm water Drainage and Erosion control measures; and
 - C. All trees greater than six inches in diameter at 4.5 feet above average ground level at the base of the Tree.
 - (2) A Historic Resources Plan.
 - (3) A construction plan for any Project where the total value exceeds \$100,000.
 - (4) A preliminary Landscaping Plan showing the main features of intended Landscaping.
 - (5) A scale model of the Project or computer-generated 3D views of the Project from designated viewpoints may be required of larger Projects, as determined by the Board of Zoning Appeals.
 - (6) A Performance Bond when there is substantial apparent risk to publicly owned infrastructure.
 - (7) A lighting plan when substantial outdoor luminaires exist or are to be added. A lighting plan shall include the following elements:
 - A. A key legend to the proposed lighting that provides the following information:
 - 1. Type and number of luminaire equipment (fixtures), including the "cut off characteristics", indicating manufacturer and model number(s).
 - 2. Lamp source type (bulb type, i.e. high-pressure sodium), lumen output, and wattage.
 - 3. Mounting height with distance noted to the nearest property line for each luminaire.
 - 4. Types of timing devices used to control the hours set for illumination, as well as the proposed hours when each fixture will be operated.
 - 5. Total lumens for each fixture, and total square footage of areas to be illuminated.
 - 6. Lighting manufacturer-supplied specifications ("cut sheets") that include photographs of the fixtures, indicating the certified "cut off characteristics" of the fixture.
 - B. Foot-candle distribution, plotting the light levels in foot-candles on the ground, at the designated mounting heights for the proposed fixtures. Maximum luminance levels should be expressed in foot-candle measurements on a grid of the Site showing foot-candle readings in every five or ten-foot square. The grid shall include light contributions from all sources (i.e. pole mounted, wall mounted, Sign, and Street lights.) and shall show foot-candle renderings five feet beyond the property lines.

- C. If requested by the Board of Zoning Appeals, an environmental impact statement regarding the impact of the exterior lighting proposed on flora, fauna, and the night sky.
- (8) Other information which is pertinent and which may, by general policy, be required by all applicants.
- (e) Site Plan Review procedure. Notwithstanding any provision of this Zoning Ordinance to the contrary and if practical and reasonable under the circumstances, Site Plan Review shall be conducted concurrently with the review of any Project Permit application.
- (f) Findings required. Before granting approval of a Site Plan, the Board of Zoning Appeals shall find that the proposed Site Plan:
 - (1) Meets the intent and specific standards and criteria prescribed in this Zoning Ordinance; and
 - (2) Is consistent with the Comprehensive Plan.

**ARTICLE 1304
Site Development Standards**

1304.02 Setbacks, Footprint, coverage, Structure orientation and height limit.

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- (a) Fences and retaining walls. Fences and retaining walls are not subject to setback requirements in Section 1304.02(b), but must be placed or erected upon a Lot as follows:
 - (1) The property owner / contractor is responsible for locating the property survey pins and marking the property line alongside the proposed fence location; this may be done with a string line tied to stakes set adjacent to the located survey pins. The survey pins must remain exposed until the posthole inspection has been completed.
 - (2) All fences and retaining walls must be constructed according to the standards and guidelines described in *Appendix A: Historic District Standards and Guidelines* of this Part.
 - (3) Fences and retaining walls bordering Town rights-of-way may be installed up to, but not over, the property line. Fences and retaining walls bordering other private property may be installed up to, but not closer than, two inches from the property line.
- (b) Setbacks for Buildings, Structures, and Other Improvements. Structures and other improvements shall be placed or erected upon a lot as follows:
 - (1) The Front Setback from an abutting street, as measured from the property line abutting the street, shall be:
 - A. Consistent with the setbacks of a majority of other Structures on the block and across the street;
 - B. On a transitional property between distinctive areas of Setback, such as between Structures that are historic structures and those which are not, the Setback should defer to that of the Historic Structures; and
 - C. In all other cases, the minimum Front Setback shall be 15 feet.
 - (2) Rear Setback, as measured from the property line, shall be:
 - A. Consistent with the setbacks of a majority of other Structures on the block and across the street;
 - B. On a transitional property between distinctive areas of

Setback, such as between Structures that are Historic Structures and those which are not, Rear Setback should defer to that of the Historic Structures; and

- C. In all other cases, the minimum Rear Setback shall be 15 feet.

(3) Side Setback as measured from the property line, shall be:

- A. Consistent with the setbacks of a majority of other Structures on the block and across the street;
- B. On a transitional property between distinctive areas of Setback, such as between Structures that are historic structures and those Structures which are not, Side Setback should defer to that of the historic structure; and
- C. In all other cases, the Side Setback shall be a minimum of 10 feet.

(c) Applicability of Standards for Setbacks. The term Setback and the variations thereof (Side Setback, Rear Setback, etc.), as defined by this Zoning Ordinance, are generally used in the context of and apply to Lot Lines. However, as recognized in Section 1303.05(b) of Article 1303, certain Projects may encompass more than one Lot. Therefore, notwithstanding any provision of this Zoning Ordinance to the contrary and if practical and reasonable under the circumstances, the Proper Authority may apply the standards for Setbacks, as set forth in Section 1304.02(a) of this Article, to the Site, or a portion of the Site, of a Project that encompasses more than one Lot.

(d) Structure Footprint and coverage.

(1) Provided that the total Coverage of all Structures is within the Buildable Area and does not exceed 50% of the size of such Lot or is determined to be consistent with coverage of a majority of Historic Structures on the block and across the street, the maximum Structure Footprint for a Single Family Dwelling, shall be as follows:

- A. A main Dwelling Unit may not have a Structure Footprint exceeding 1,600 square feet plus up to 500 square feet for a single Story attached Private Garage.
- B. The total Structure Footprint of all Accessory Structures may not exceed 250 square feet unless these include a detached single Story Private Garage where in such cases a total of 550 square feet is allowed.
- C. The total coverage of all parking and Driveway areas on the Lot may not exceed 1,000 square feet.

(2) Greater coverage within the Buildable Area may be permitted for a Single Family Dwelling if the Lot is determined to be consistent with coverage of a majority of structures on the block and across the street so long as the total coverage does not exceed 60% of the Lot coverage within the Buildable Area and the following criteria are satisfied:

- A. A main Dwelling Unit does not have a Structure Footprint exceeding 2,300 square feet, which is in addition to the permitted 500 square feet for a single Story attached Private Garage.
- B. The total Structure Footprint of all Accessory Structures does not exceed 350 square feet unless these include a detached single Story Private Garage where in such case a total of 750 square feet is allowed.
- C. The total coverage of all parking and Driveway areas on the Lot does not exceed 1,400 square feet.

(e) Height limit. Except as otherwise specified in this Zoning Ordinance, the maximum Structure Height shall be 35 feet or within 10 percent of

the average Structure Height of Abutting Structures that are clearly visible from the street or public way directly in front of the Structure in question.

APPENDIX A

FENCES and WALLS

See also Retaining Walls.

Fences and free-standing walls of stone, iron, brick, and wood contribute to the 19th- and early 20th-century streetscape of Harpers Ferry.

Standards for all properties in the Historic District

1. The design of new fences and walls must complement materials and designs that are historically appropriate to the structure or are found in the neighborhood. Historically appropriate materials include wood, brick, iron, stone, concrete, and plantings. Chain link fences, concrete block fences, plastic, or fiberglass fences are not appropriate.
2. The height of a fence in the front yard may not exceed 4 feet. Other fences or walls in the property may not exceed 6 feet.
3. Painted or stained fences of wood pickets, balusters, or spindles are appropriate for front yards. Solid board fences that obstruct visibility of the premises are not appropriate for use in front yards and must be avoided.
4. All fences must be installed with the finished side facing out, so that posts and lateral supports are not on the side of the fence or wall that faces an adjacent property or public right-of-way, unless such supporting members are exposed on both sides due to the specific design of the fence.
5. Exceptions may be applicable to temporary construction fences. (See *Appendix B.*)

APPENDIX B

STANDARDS FOR THE MAINTENANCE OF THE PROJECT SITE

The property owner will ensure that:

- (a) the Project site is kept clean and free of trash;
- (b) the Project site is regularly treated to control dust;
- (c) lavatory facilities are clean and regularly maintained to keep odor away from residences and businesses in the Town;
- (d) open excavation trenches and exposed construction are secured to protect the general public on the streets and rights of way;
- (e) there is proper pedestrian signage around the Project site and clearly defined access to neighboring businesses and residences.

It is the property owner's responsibility to ensure that work, including staging of materials and equipment, is confined to the limits of land or area disturbance indicated on the site logistics plan and on the approved Permit Application.

Where safety issues indicate, the Ordinance Compliance Officer or the Board of Zoning Appeals may require that the property owner enclose the outer limits of the construction area with a quality construction fence. In those

areas exposed to view by Town residents and the visiting public, a temporary stockade type fence may be required by the Ordinance Compliance Officer or the Board of Zoning Appeals.

In areas that are contiguous with public property, the property owner shall ensure that walkways and view sheds remain accessible to the general public to the greatest extent possible while assuring public safety in each construction phase.

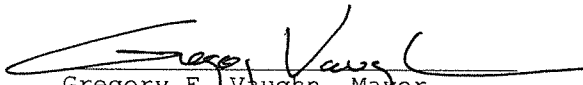
Temporary construction fences are allowed pursuant to the following standards:

- (a) A temporary construction fence is to be installed on the front, side, and rear property lines, or as otherwise specified by the Ordinance Compliance Officer.
- (b) Permitted fence types include chain link fences or substitutes approved by the Ordinance Compliance Officer.
- (c) A maximum height of 12 feet and a minimum height of 6 feet is allowed for a temporary construction fence. An appropriate fence height is to be determined by the Ordinance Compliance Officer.
- (d) A permit for a temporary construction fence expires with the associated Zoning Compliance Permit or Conditional Use Permit as outlined in Ordinance Section 1303.07. The temporary construction fence must remain on the property until the completion of construction activities as directed by the Ordinance Compliance Officer or Proper Authority.

This ordinance takes effect immediately upon adoption.

Passed FIRST READING the 14th day of March, 2022.

Passed SECOND and FINAL READING the 24th day of March, 2022.


Gregory F. Vaughn, Mayor


Kevin Carden, Recorder