

ORDINANCE NO. 21-06

Introduced by: Thomas B. Willis, Jr.

AN ORDINANCE OF THE TOWN OF QUEENSTOWN TO AMEND SECTION 94 OF THE QUEENSTOWN ZONING ORDINANCE TO ESTABLISH HEIGHT, AREA, AND BULK REQUIREMENTS FOR FENCES WITHIN TOWN

WHEREAS, pursuant to Md. Code Ann. Local Government § 5-213, the Commissioners of Queenstown have the authority to adopt regulations concerning zoning; and

WHEREAS, Md. Code Ann. Land Use Article § 4-202 authorizes municipalities to adopt zoning regulations as it determines are in the public health, safety and welfare; and

WHEREAS, the Queenstown Planning Commission has recommended that certain changes be made to the Queenstown Zoning Ordinance, specifically—to address the height, area, and bulk requirements for fences and walls within town; and

WHEREAS, on October 27, 2021, the Queenstown Commissioners held a public hearing on Ordinance No. 21-06 and have determined that it is desirable and in the public interest to make certain amendments to the Zoning Ordinance as recommended by the Queenstown Planning Commission.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS OF QUEENSTOWN AS FOLLOWS:

Section 1. Article VIII, Section 94 of Queenstown Zoning Ordinance is hereby amended as follows:

§94. Height, Area and Bulk requirements.

...

G. Accessory buildings and structures.

1. ~~An ornamental fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided that such fences and walls do not exceed a height of six (6) feet.~~

21. Accessory buildings which are not a part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided that such accessory building does not occupy more than forty percent (40%) of the area of the required rear yard, and provided that it is not located closer than five (5) feet to the rear lot line nor closer than three (3) feet to a side lot line.
32. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than fifteen (15) feet from street lines.

Section 2. Article VIII, Section 94 of Queenstown Zoning Ordinance is hereby amended to add a new Section I. as follows:

I. Fences and walls.

1. **Definitions.** For purposes of the subsection, the following terms shall have the indicated meaning:
 - a. **Height of fence – Distance as measured from ground level at the fence base to the uppermost part of the fence (see Illustration 01).**
 - b. **Fence — Any structure, regardless of composition, except a living fence, erected or maintained to enclose a piece of land or divide a piece of land into distinct portions and prohibit intrusions from outside.**
 - c. **Ornamental fence - A fence that is no more than thirty-six (36) inches high and uniformly less than fifty percent (50%) solid designed in such a manner, and of such material, that the primary purpose is to decorate or enhance the appearance of the front or side yard setback in a residential area.**
 - d. **Privacy fence (also Screening fence) — A fence at least thirty-six (36) inches and no more than seventy-two (72) inches high designed and intended to block or filter the view of motorists and pedestrians into the interior of a lot to the extent that the activities conducted on the lot are indiscernible.**
 - e. **Security Fence – Fence not exceeding a height of seventy-two (72) inches intended to restrict access to a property and/or control access.**
 - f. **Wall - A freestanding, solid upright structure intended to enclose, divide, delineate, screen, retain water or earth, or protect an area.**
2. **Permit required.**

- a. *No new fence or wall shall be erected, placed, or maintained, and no existing fence or wall shall be altered or replaced until a permit is obtained from the Town.*
 - b. *At a minimum, the permit application shall be accompanied by a scaled drawing showing the proposed location and dimensions of the fence or wall on the subject lot and its relationship to the property lines, public rights-of-way, easements, utilities, existing structures, existing trees, and steep topography. The permit application shall also include construction drawings, pictures, or diagrams to illustrate the overall design and materials for the proposed fence or wall.*
 - c. *A permit may not be required if the fence is included in an approved site plan.*
2. *Where permitted.*
- a. *An ornamental and privacy fence may be permitted in the R-1, R-2, TC, CS, and QRD districts.*
 - b. *A privacy fence may be permitted in the R-1, R-2, TC, QRD, CS, QRD, HC, and RC districts.*
 - c. *A security fence may be permitted in the HC, RC, and I districts.*
3. *Standards.*
- a. *. No fence shall be located more than three (3) feet from any lot line, unless otherwise permitted by this Ordinance.*
 - b. *Fences may extend from the rear yard to the corners of the front plane of the principal structure. However, fences may not extend across the front of the principal structure (see Illustration 02).*
 - c. *For regulating fences on a through or double frontage lot and corner lots, the front yard/setback and house frontage are defined by the principal structures' predominant front orientation.*
 - (1) *On through lots, an ornamental fence or privacy fence may enclose the secondary front yard. If the ornamental or privacy fence is over thirty-six (36) inches high, it shall be set back a minimum of ten (10) feet from the front property line (see illustration 03).*

- (1) *Wood or composite material indistinguishable from wood.*
- (2) *PVC provided it is a wood "look-a-like," i.e., like wood in appearance.*
- (3) *Chain link.*

5. Prohibited fence materials

a. Any fence that may cause a nuisance, a fire hazard or a dangerous condition, or obstruction affecting public safety is prohibited.

b. The following fences and fencing materials are expressly prohibited:

- (1) *Barbed wire.*
- (2) *Canvas fences.*
- (3) *Cloth fences.*
- (4) *Electrically charged fences.*
- (5) *Poultry or similar fences.*
- (6) *Turkey or similar wire*
- (7) *Temporary fences such as snow fences. Temporary wire fences may enclose gardens or planting areas if the fence is located in a rear or side yard and within the accessory structure setback.*
- (8) *Expandable fences and collapsible fences, except during the construction of a building.*
- (9) *Razor wire.*
- (10) *Any fences with spikes, broken glass, or other sharp points.*
- (11) *slats (i.e., vinyl, aluminum, etc.) inserted into chain link or cyclone fences.*

6. Walls

a. Walls for ornamental, privacy or security purposes are not permitted.

b. The Planning Commission may permit a wall certified by an engineer and used for the express purpose of retaining water or earth.

7. Nonconforming fences

- a. Any fence constructed before the adoption of this subsection may remain provided it is maintained.**
- b. Any nonconforming fence that is destroyed or damaged by fire or other calamity may be reconstructed.**
- c. Maintenance or repair, including structural repairs, may be made to any nonconforming fence or portions thereof if the repairs do not result in a different nonconformity.**

8. Maintenance.

- a. Fences and walls shall be maintained per the Town's property maintenance code.**
- b. All fences shall be maintained in good, safe, and stable condition. Rotten, broken, or missing components shall be replaced or repaired immediately.**
- c. Fences shall be made from natural water-resistant material or be pressure treated, stained, painted, or vinyl coated and kept in good aesthetic condition.**

9. Restrictions.

- a. No new fence shall be erected, placed, or maintained, and no existing fence shall be altered or replaced to encroach upon a public right-of-way or easement area.**
- b. The area three (3) feet in radius around fire hydrants, fire hose connections, and utility boxes shall be kept free of any fences that could impede the use of the hydrant, hose connection, or utility box.**
- c. Fences shall be installed not to disturb or damage existing trees equal to or greater than five (5) inches diameter at a height of five (5) feet unless otherwise approved by the Planning Commission.**
- d. Fences shall not alter or impede the natural flow of stormwater nor divert the water onto the property of others.**
- e. Fences and walls shall be assembled following the manufacturer's requirements and constructed of approved materials customarily used for fences and manufactured for fence construction.**

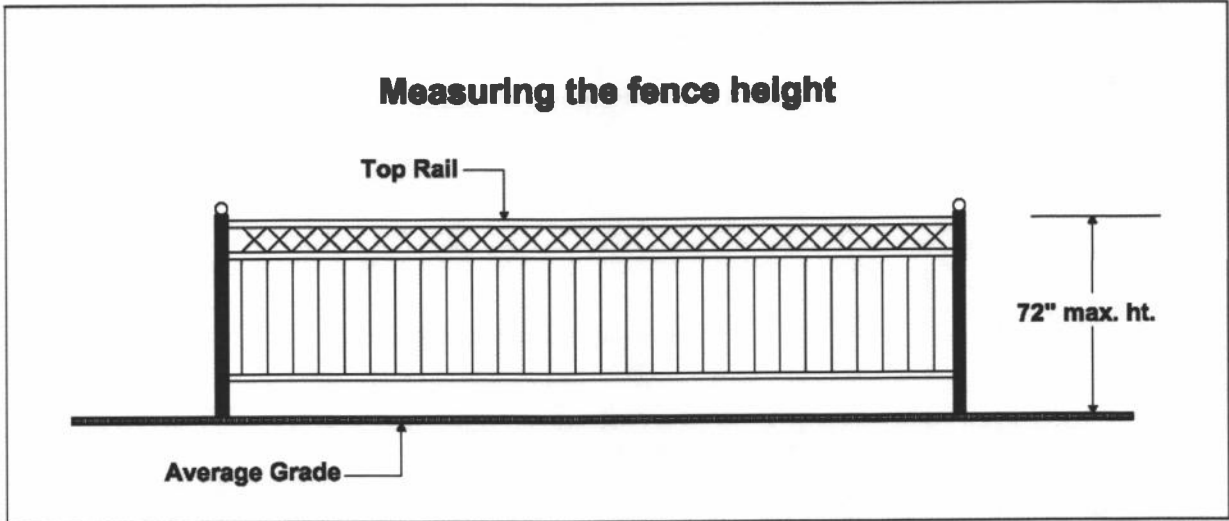
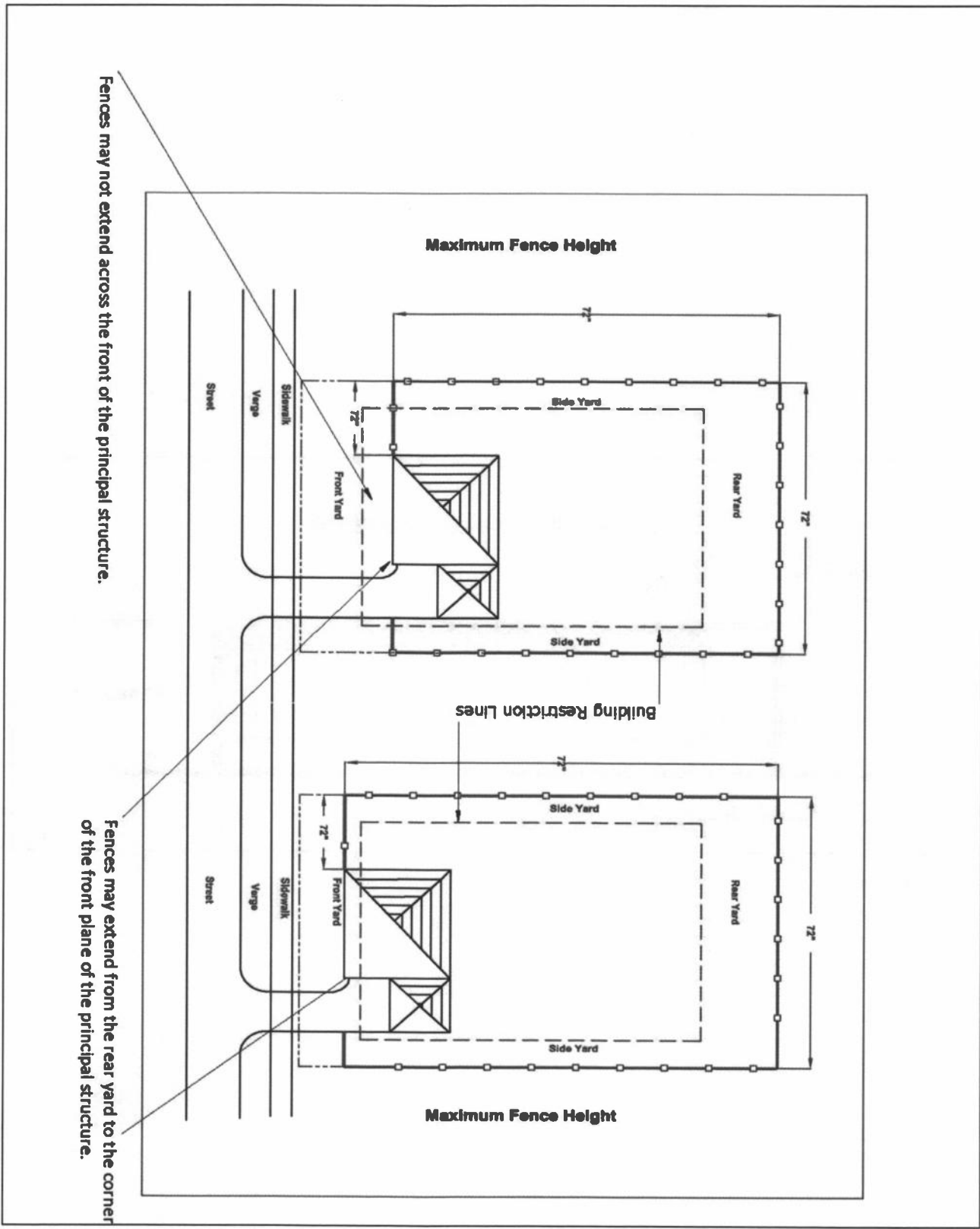


Illustration 01



Fences may not extend across the front of the principal structure.

Fences may extend from the rear yard to the corner of the front plane of the principal structure.

Illustration 02

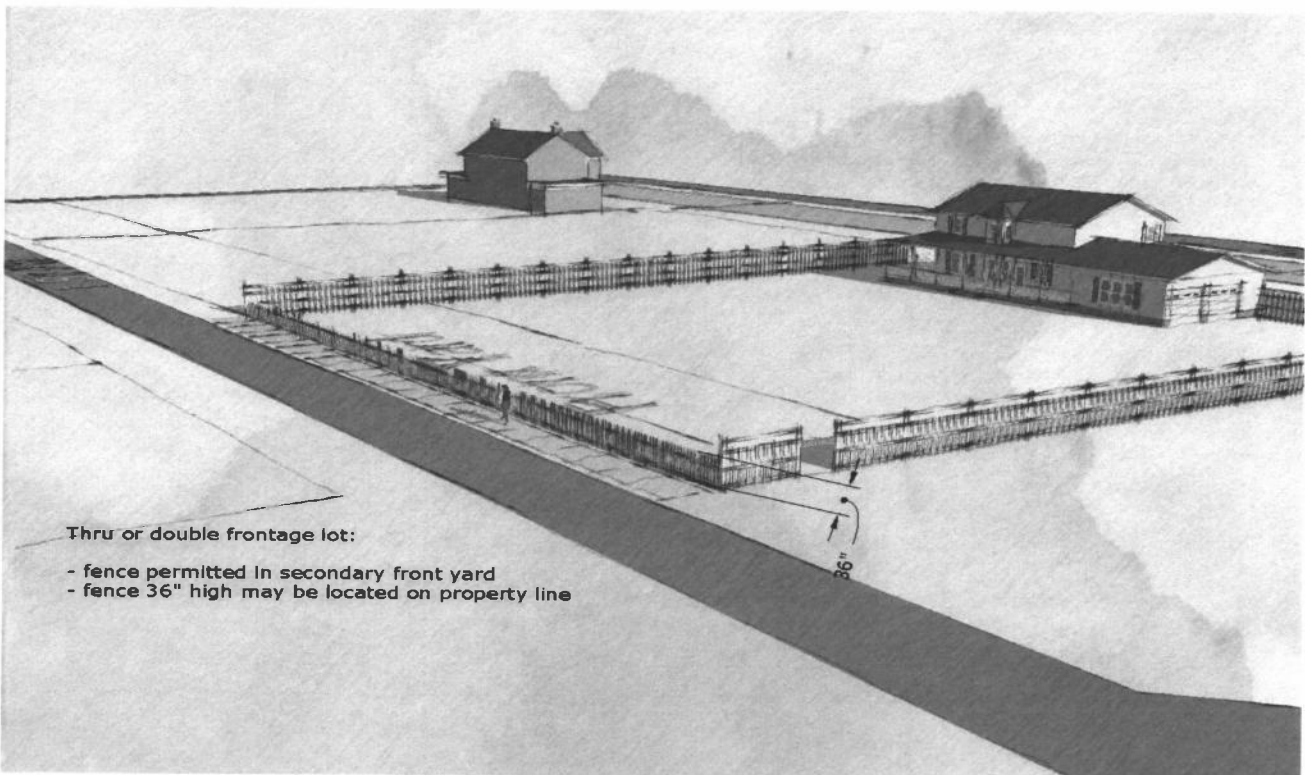
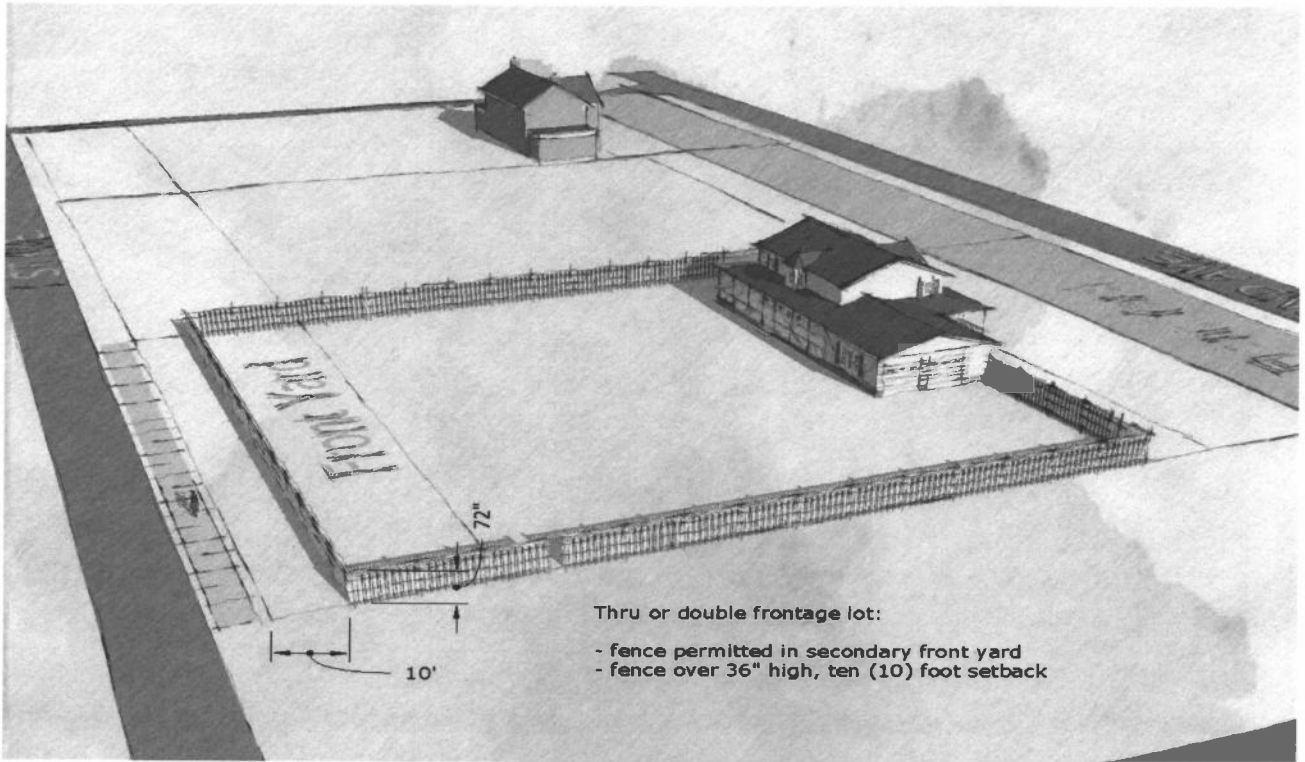


Illustration 03