

ORDINANCE NUMBER 2016-07

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY ZONING ORDINANCE, ARTICLE XXIV, WALLS AND FENCES

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article XXIV, Walls and Fences, Section 2402, Section 2403, Section 2404, and Table 2404 A, are hereby amended (with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**):

Section 2402. Definitions:

Combination View Fence – A combination view fence (including gates) is a free-standing, upright structure that meets this Section's definition for "view fence" for at least 50% of the height of the structure and meets this Section's definition for "wall" for the remaining portion. The portion of the Combination View Fence meeting the definition of "view fence" must be positioned above the portion meeting the definition of "wall."

Hedge – Dense planting of shrubs, bushes, or any kind of plant designed, installed, maintained, and planted in line or in groups that form a compact, dense, living barrier that protects, shields, separates, or demarcates an area from view.

Hedge and Landscape Area - The area between the back of curb or edge of asphalt and the front building setback line of the primary residence.

Wall - A wall or fence (including gates) is a freestanding, upright structure, other than plant material, constructed of barriers to enclose, divide, delineate, screen, retain water or earth, or protect an area. The term wall shall include all fences, except a view fence **and combination view fence as defined ~~below~~ **above**.**

View Fence – A view fence (including gates) is a free-standing, upright structure, constructed with openings between the materials used for construction of the fence, where the openings represent at least ~~80~~ **70 percent of the total fence surface area.**

Meandering Wall – A meandering wall is a ~~free-standing, upright structure~~ **wall providing significant variations in setback. Meandering walls may consist of curvilinear, square, rectangular, triangular, or freeform design patterns and shall meet the criteria set forth in Tables 2404 A and B in addition to other criteria specified in this article.**

Yard, Front - A front yard is the area between the right-of-way line and the front building setback line.

Section 2403. Wall Finishes:

Any wall visible from adjoining properties, adjacent rights-of-way, and/or open space areas shall consist of finished materials such as stucco, brick, stone, metal, rails, wood, or tile.

a. Walls Adjacent to Rights-of-Way and Open Spaces.

When such wall is adjacent to or visible from a right-of-way and/or open space area, it shall complement the architectural character of the main house, and shall have a finish texture, color, and material on the exterior side that is compatible with the primary building on-site, or as determined by the Town. The minimum standard for a wall finish shall be stucco and paint.

b. Walls Adjacent to Adjoining Properties.

When such wall is adjacent to an adjoining property, the wall shall be finished on the exterior side. ~~compatible with the architectural character of the neighboring house.~~ The minimum standard for a wall finish shall be stucco and paint.

EXCEPTIONS:

1. The side of the wall facing the adjoining property may be finished with such materials and colors as agreed upon by the property owner and adjoining property owner. **If the property owners cannot agree on the type of finish, the minimum standard for the wall finish shall be stucco and paint.**
2. If the owner of adjoining property grants no reasonable access to the applicant to finish the side of the wall facing the adjoining property, the applicant will be relieved of any obligation to improve that side of the property wall. **At least two (2) attempts shall be made to try to contact the adjoining property owner. The minimum standard of notification shall be a written letter sent via certified mailed to the owner at his last known address by certified mail, or the address to which the tax bill for the property was last mailed.**

Section 2404. Height and Setback Regulations:

a. Height Regulations

1. In General.

The height of walls, ~~and~~ view fences, **and combination view fences** shall be measured vertically from the finished grade on the exterior side of the wall or view fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a wall, ~~or~~ view fence **or combination view fence** is prohibited. If a wall, ~~or~~ view fence **or combination view fence** is placed on a berm, the height shall be measured vertically from the base of the berm.

2. Adjoining Local, Collector, and Minor Arterial Streets.

The maximum height of a wall, ~~and~~ view fence **or combination view fence**, including the berm, adjoining a local, collector, and minor street shall not exceed six (6) feet, further provided that no portion of ~~the a~~ wall or ~~view~~ fence located between the ten- (10) foot and forty- (40) foot front yard setback shall exceed three (3) feet, **except for view fencing and combination view fencing, which may extend up to six (6) feet at a front yard setback of twenty (20) feet or greater, and** except for entry gates and columns as permitted under Section 2413. See Table 2404A for additional criteria.

3. Adjoining Major Arterial Streets.

The maximum height of a wall, ~~and~~ view fence **and combination view fence**, including the berm, adjoining a major arterial street shall not exceed eight (8) feet. The maximum exposed vertical wall or view fence element from the exterior side of the property shall be no more than six (6) feet, except for a single entry gate and columns as permitted under Section 2413. See Table 2404A for additional criteria.

4. Adjoining Non-Residential Properties Other Than Along A Right-Of-Way

The maximum height of a wall, ~~and~~ view fence **and combination view fence**, including the berm, between a residential property and an adjoining non-residential property, other than a right-of-way, shall not exceed eight (8) feet. When such a wall is adjoining or visible from a right-of-way and/or open space area, it shall complement the architectural character of the main house, and shall have a finish texture, color, and material on both sides compatible with the primary building on-site, or as determined by the town. See Table 2404A for additional criteria.

b. Setbacks Regulations

1. In General.

Setbacks for a wall, ~~or~~ view fence **or combination view fence** will vary depending on whether it is a) adjoining a right-of-way or other property; b) adjoining a major arterial or other street classification; c) located in the front yard or other sides of the lot; d) considered a wall or a view fence; ~~or~~ e) meandering and based on the amount of meander utilized in the wall's construction **or f) meets the criteria for combination view fencing set forth in Section 2402.** Walls, ~~or~~ view fences **or combination view fencing** not

adjoining a public or private right-of-way may be built at or on the property lines with no setback requirement. See Table 2404A and B for additional criteria.

2. Adjoining Local, Collector, and Minor Arterial Streets.

Solid walls or view fences not meeting the criteria for view fencing or combination view fencing located in the front yard of a lot adjoining local, collector, or minor arterial streets that exceed three (3) feet in height shall be setback at least forty (40) feet from the right-of-way property line. **View fences or combination view fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that are six (6) feet in height or less shall be setback at least twenty (20) feet from the right-of-way property line.** Walls, or view fences, or combination view fences located in the front yard of a lot adjoining local, collector, or minor arterial streets that are three (3) feet in height or less shall be setback at least ten (10) feet from the right-of-way property line, except for the area allotted to an entry gate, as permitted under Section 2413, may be greater than the three foot height limitation. Walls located in the side or rear yard of a lot adjoining local, collector, or minor arterial streets, three (3) feet in height or less, shall be setback at least ten (10) feet from the right-of-way property line. Walls located in the rear or side yard of a lot adjoining local, collector, or minor arterial streets that exceed (3) three feet in height, shall be setback at least twenty (20) feet from the right-of-way property line; however, a view fence may be constructed at a ten (10) foot setback, or a meandering wall may be constructed at an average fifteen (15) foot setback, provided they meet the criteria set forth in this article and Table 2404A. See Table 2404A for additional criteria.

3. Adjoining Major Arterial Streets.

Walls exceeding three (3) feet in height that adjoin major arterial streets shall be setback at least twenty (20) feet from the right-of-way property line; however, a view fence may be constructed at a ten (10) foot setback or a meandering wall may be constructed at an average fifteen (15) foot setback provided they meet the criteria set forth in this article and Table 2404 A. Walls three (3) feet in height or less may be constructed at the ten (10) foot setback. See Table 2404A for additional criteria.

4. Additional Criteria for Meandering Walls.

Meandering walls shall maintain an average setback of not less than fifteen (15) feet, said average to be determined by comparing the area between the ten (10) and the fifteen (15) foot setback area (noted as Area "A" on Figures 2404-A through -C) with the area encroaching between the fifteen (15) and the twenty (20) foot setback area (noted as Area "B" on Figures 2404-A through -C) such that the area located between the ten (10) and the fifteen (15) foot setback area shall be equal to or less than the area located between the fifteen (15) and twenty (20) foot setback area. Walls that have no significant meander and that are configured to meet the criteria set forth herein solely for the purpose of moving to a fifteen (15) foot setback are impermissible. See Tables 2404A and 2404B for additional criteria.

Table 2404A summarizes many of the regulations relating to height and setback regulations for walls, meandering walls, and view fences, **and combination view fences**; and sets forth additional criteria related to these structures. Table 2404B sets forth additional criteria for meandering walls.

d. Additional Criteria for View Fences and Combination View Fences.

Properties that contain view fencing or combination view fencing over 3' in height and between 20' and 40' of the front yard setback may not also contain hedges over 3' in height in the front yard or in any unpaved sections of right-of-way and must have a hedge maintenance agreement executed and recorded prior to the issuance of a building permit for the combination view fencing. The maintenance of the hedge is the responsibility of the property owner. The hedge maintenance agreement shall:

- (a) Be in a form acceptable to the Town Manager or Designee,**
- (b) Grant the Town easement rights and a right of entry in, over, and across the Hedge and Landscape Area for purposes of complying with this section,**
- (c) Specify that the maintenance responsibility for the Hedge and Landscape Area remains private,**
- (d) Be recorded in the Maricopa County Recorder's office, and**
- (e) Specify that the property owner shall maintain the hedge within the Hedge and Landscape Area in compliance with all applicable Town codes.**

TABLE 2404A – ALL RESIDENTIAL DISTRICTS SETBACK AND HEIGHT REGULATIONS FOR WALLS / VIEW FENCES/COMBINATION VIEW FENCES

| <i>FRONT YARD ALONG RIGHTS-OF-WAY</i> | | | |
|--|---|---|-----------------------------|
| STREET TYPE | TYPE OF WALL OR FENCE | SETBACK FROM PROPERTY LINE, FEET | MAXIMUM HEIGHT, FEET |
| Major | View Fence | 10, Minimum | **8, including berm |
| | Meandering Wall | 15, Average | **8, including berm |
| | All Others | 20, Minimum | **8, including berm |
| | Any | 10, Minimum | 3 |
| Local, Collector, Minor | Any | 10, Minimum | 3 |
| | Any View Fence/Combination View Fence | *40, Minimum ***20, Minimum (Landscape Restrictions with Maintenance Requirements) | 6 |
| | All Others | *40, Minimum | 6 |
| | | | |
| <i>SIDE OR REAR YARD ALONG RIGHTS-OF-WAY</i> | | | |
| Major | View Fence | 10, Minimum | **8, including berm |
| | Meandering Wall | 15, Average | **8, including berm |
| | All Others | 20, Minimum | **8, including berm |
| | Any | 10, Minimum | 3 |
| Local, Collector, Minor | View Fence | 10, Minimum | 6 |
| | Meandering Wall | 15, Average | 6 |
| | All Others | 20, Minimum | 6 |
| | Any | 10, Minimum | 3 |
| SIDE OR REAR YARD INTERIOR (not along any right-of-way) | | | |
| Not applicable | Any | None Required | 6 |
| SIDE OR REAR YARD INTERIOR (adjoining non-residential property other than a right-of-way) | | | |
| Not applicable | Any | None Required | **8, including berm |

* In R-18A Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 35 feet.

In R-10 Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 20 feet, or as shown on the recorded plat, or as existing at the time of annexation. The setbacks shown on the recorded plat take precedence. If there are no setbacks shown on the recorded plat, the applicant shall choose a setback of 20 feet or a setback as existing at time of annexation. Reference Table 2404A for R-10 Zoning District side and rear yard setbacks.

** Refer to Section 2404(a) for details

*** **Refer to Section 2404.d for landscape restrictions.**

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. In accordance with Article II, Sections 1 and 2, constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

Section 4. This ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this ___ day of _____, 2016.

Michael Collins, Mayor

SIGNED AND ATTESTED TO THIS _____ DAY OF _____ 2016

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that the foregoing is a true copy of Ordinance Number 2016-07 duly passed and adopted by affirmative vote of the Town Council of Paradise Valley at a meeting held on the ____ of _____ 2016. Passage of this Ordinance appears in the minutes of the meeting. The Ordinance has not been rescinded or modified and is now in effect. I further certify that the municipal corporation is duly organized and existing, and has the power to take the action called for by the Ordinance.

Duncan Miller, Town Clerk

DRAFT