

ORDINANCE 2069-23

**AN ORDINANCE OF THE CITY OF MILTON,
WASHINGTON, AMENDING TITLE 17 OF THE MILTON
MUNICIPAL CODE RELATED TO FENCES AND VISION
CLEARANCE; ENTERING LEGISLATIVE FINDINGS;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE.**

WHEREAS, the City Council directed the Planning Commission to review Title 17 Zoning and develop standards and guidelines for fences and vision clearance; and

WHEREAS, the City desires to establish minimum requirements and standards for fences in order to provide screening and security while protecting the aesthetic assets of the community; and

WHEREAS, the City issued a Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) on March 28, 2023; and

WHEREAS, the City submitted the Notice of Intent to Adopt Amendment to the Department of Commerce on March 28, 2023 and no comments were received; and

WHEREAS, the Planning Commission held the required public hearing on the proposed amendments on April 12, 2023, which was preceded by public notice in accordance with the Milton Municipal Code; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments at their April 12, 2023 meeting; and

WHEREAS, the City Council held a public hearing on May 15, 2023,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above constitute the Milton City Council's findings in support of this ordinance to amend sections of Title 17 pertaining to zoning regulations of fences and vision clearance.

Section 2. MMC Section 17.08.310 Fence, amended. Section 17.08.310 of the Milton Municipal Code is hereby amended to read as follows:

17.08.310 Fence. "Fence" means a wall or barrier for the purpose of enclosing space, separating property, providing security, reducing noise and/or visual impacts, and composed of materials manufactured specifically as fencing. The term "fence" does not

include retaining wall or landscaping features including but not limited to trees, shrubs, hedges or other vegetation. Fence types are further defined in MMC 17.44.080(B)(4).

Section 3 MMC Section 17.08.942 Zone, Residential, added. Section 17.08.942 of the Milton Municipal Code is hereby added to read as follows:

17.08.942 Zone, Residential. Unless indicated otherwise, “residential zone” means a zoning district whose primary focus is residential and includes the Residential Single-Family District (RS), Residential Moderate Density District (RMD), and Residential Multifamily District (RM).

Section 4 MMC Section 17.08.944 Zone, Non-residential, added. Section 17.08.944 of the Milton Municipal Code is hereby added to read as follows:

17.08.944 Zone, Non-residential. Unless indicated otherwise, “non-residential zone” means a zoning district whose primary focus is not residential and includes the Business District (B), Mixed Use Town Center District (MX), Community Facilities District (CF), Light Manufacturing District (M-1), Open Space District (OS) and Planned Development District (PD).

Section 5. MMC Section 17.44.060 Vision clearance, amended. Section 17.44.060 of the Milton Municipal Code is hereby amended to read as follows:

17.44.060 Vision clearance.

A. All corner lots shall maintain for safety vision purposes a triangular area, two sides of which shall extend 20 feet along the lot lines from the corner of the lot formed by the intersection of the two streets. Within the triangle and from the edge of the triangle to the edge of the street pavement, no structure, object, fence or vegetation shall be allowed between a height of 42 inches and ten feet above the established grade as shown in Figure 1.

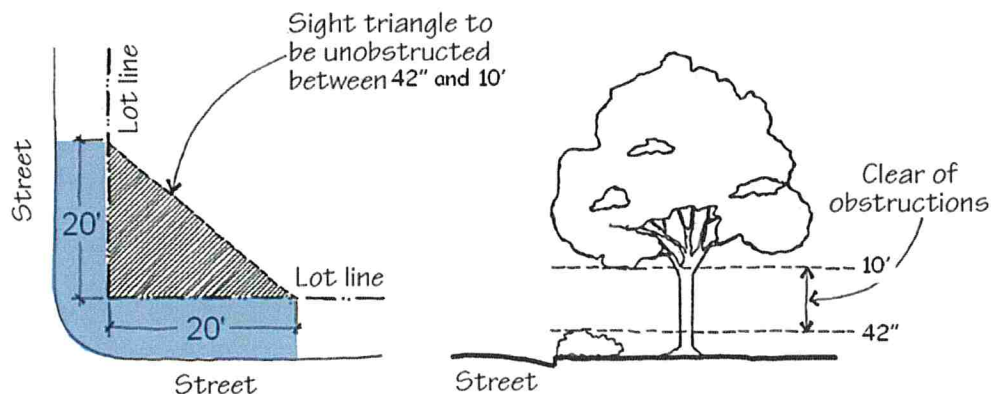


Figure 1

B. On lots upon which a vehicular driveway is maintained, an area of vision clearance shall be maintained on each side of the driveway. The area shall be defined by a triangle, extending 20 feet along the lot line from the intersection of the driveway and the street and 12 feet along the edge of the driveway as shown in Figure 2.

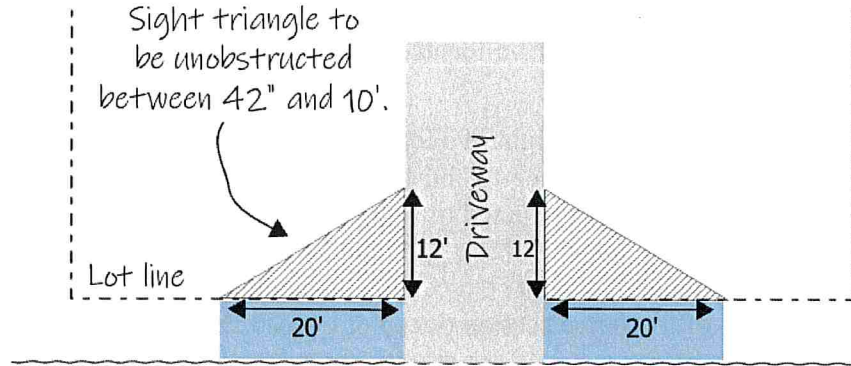


Figure 2

C. If the driveways of adjacent properties' vision clearance is affected then the fence, shrub or tree must meet the requirements of subsections A and B of this section.

D. Public poles and traffic control devices shall not be considered sight obstructions in the vision clearance triangle. Additional objects 12 inches in diameter and smaller and significant trees as defined in MMC 17.44.110.G.1 may be allowed within sight distance areas if located so as not to substantially restrict the driver's view of approaching traffic or pedestrians.

E. The requirements listed in subsections A, B, C and D of this section shall be subject to MMC 12.20.030.

Section 6. MMC Section 17.44.080 Fences, amended. Section 17.44.080 of the Milton Municipal Code is hereby amended to read as follows:

17.44.080 Fences.

A. Intent. The intent of this section is to establish minimum requirements and standards for fences in order to provide screening and security while protecting the aesthetic assets of the community.

B. All fences, as defined in MMC 17.08.310, in the city are allowed under the following conditions:

1. Permit Requirements.

a. A fence permit is required from the planning and community development department for fences on private property that are located in a required yard along a public right-of-way of residential properties and for all fences on non-residential properties.

b. If more than 35% of the fence run (a section of continuous fencing along one property line) is to be rebuilt or replaced, it shall be treated as a new fence and subject to the permitting criteria of subsection (B)(1).

c. A building permit is required for fences when required by the International Building Code or International Residential Code.

2. Location. Private fences shall be located on private property and not within a public right-of-way.

3. Measurement Criteria. The height of a fence shall be measured from the existing ground elevation directly under the fence to the top of the fence, excluding posts. On sloping properties where a fence is constructed of sections which are terraced to match the terrain, fence height shall be the average of the high and low points of each fence section. In such instances, portions of the fence may exceed the maximum allowable height; provided, that the average height of the fence section does not exceed the maximum height.

4. Fence Types. In addition to the definition of a fence found in this title, fences are further classified as follows:

a. Opaque. Fences are considered opaque if the fence provides less than 75 percent visibility through the fence. Examples of opaque fences include but are not limited to solid wood fences, concrete wall fences, picket fences, and chain link fences with slats inserted.

b. Transparent. Fences are considered transparent if the fence provides greater than or equal to 75 percent visibility through the fence. Examples of transparent fences include but are not limited to split rail fences, spaced picket fences, chain link fence without slats inserted, and wrought iron fences.

5. Security Gates. Where security gates are installed, they must be approved by East Pierce Fire and Rescue and follow the Pierce County Gate Standards.

6. Prohibited. Barbed wire concertina wire, and the like, shall not be allowed in any district except the Light Manufacturing (M-1) and Community Facilities (CF) Districts nor allowed along a shared property line with a residential zoning district or established residential use, including multifamily.

7. Electrified fences. Where allowed, electrified fences, regardless of the intensity of the electrification, shall be behind a minimum six-foot-tall opaque or transparent fence, and shall be protected from contact with pedestrians and incidental discharge of electricity to any person, animal or object utilizing the sidewalk or adjacent right-of-way if a sidewalk does not exist. Electrified fences shall meet all applicable federal, state and local electrical codes. Electrified fences are allowed in the Light Manufacturing (M-1), Community Facilities (CF), and on parcels used for livestock.

8. Materials. Fences shall be made of exterior rated materials, such as wrought iron or other decorative metals suitable for the construction of fences, fired masonry, concrete, stone, chain link, wood planks, and vinyl or fiberglass composite manufactured specifically as fencing. Fence materials must also be materials approved for exterior use and are weather and decay-resistant.

9. Existing Fences. The requirements of this section shall apply only to fences built after the effective date of the ordinance codified in this section. Fences legally constructed

before that date shall be considered legal nonconforming fences subject to Chapter 17.52 MMC. Existing fences removed and replaced after the adoption date of this ordinance shall meet the requirements of this section. Maintenance of a fence does not trigger the necessity to bring a nonconforming fence into compliance with the current regulations, unless more than 35% of the fence run (a section of continuous fencing along one property line) is to be rebuilt or replaced.

10. Exemptions. The provisions of this section shall not apply to fences required by state law to surround and enclose public utility installations, fences required by other parts of the code, or chain link fences enclosing school grounds or public playgrounds. This exemption does not apply to required building permits, when applicable.

11. In all zones, fences must meet the provisions of Chapter 15.05 MMC, the most recently adopted version of the International Building Code, and the city’s public works development standards.

C. Residential Zones. In addition to the requirements outlined in MMC 17.44.080(B) above, fences located in any residential zone are allowed under the following conditions, provided the safety vision clearance requirements of this chapter shall be maintained:

1. Required front yard. An opaque fence not to exceed 48 inches in height, or a transparent fence not to exceed six feet in height may be located in a required front yard
2. Interior lots. A fence, not to exceed six feet in height, may be located anywhere on the lot outside of the required front yard.
3. Corner lots and through lots. When a lot has more than one required front yard, the front yard for fence purposes shall be determined by the land use administrator taking into account the design of the building, driveway location, and address.

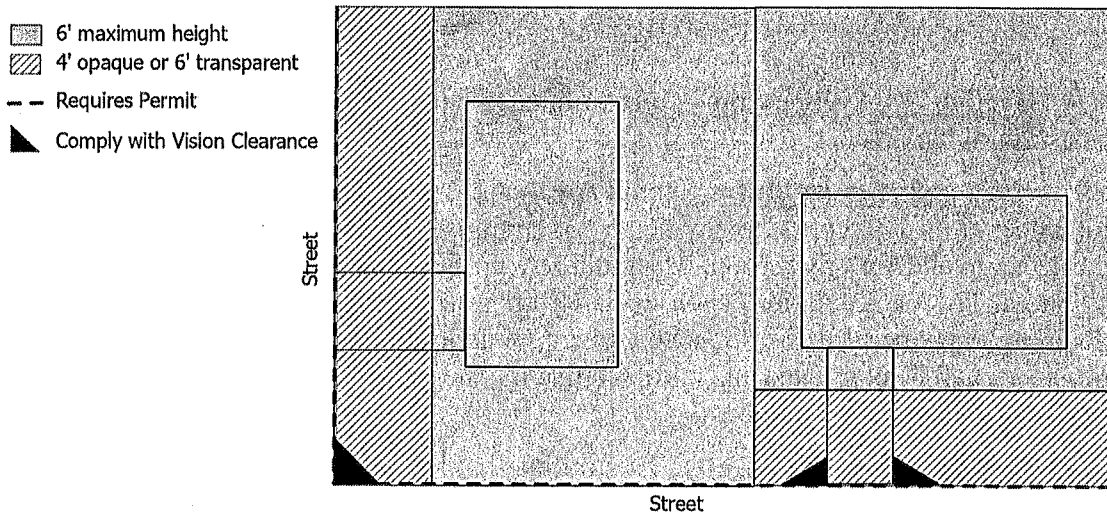


Figure 1 – Residential Fence

D. Non-residential Zones. In addition to the requirements outlined in MMC 17.44.080(B) above, fences located in any non-residential zone, not regulated by the Uptown District or a planned development agreement, are allowed under the following conditions, provided that safety vision clearance requirements of this chapter shall be maintained:

1. A transparent fence, not to exceed six feet in height, may be located in the front yard provided a minimum of five feet of perimeter type landscaping is provided between the fence and the front property line.
2. A fence, not to exceed six feet in height, may be located anywhere on the property outside of the front yard.
3. A fence, not to exceed eight feet in height, is allowed anywhere on the property on the interior of the required perimeter landscaping strip outlined in MMC 17.15C.010.
4. A property with a residential use, including multifamily, in any non-residential zone shall comply with the residential zoning standards listed in MMC 17.44.080(C).

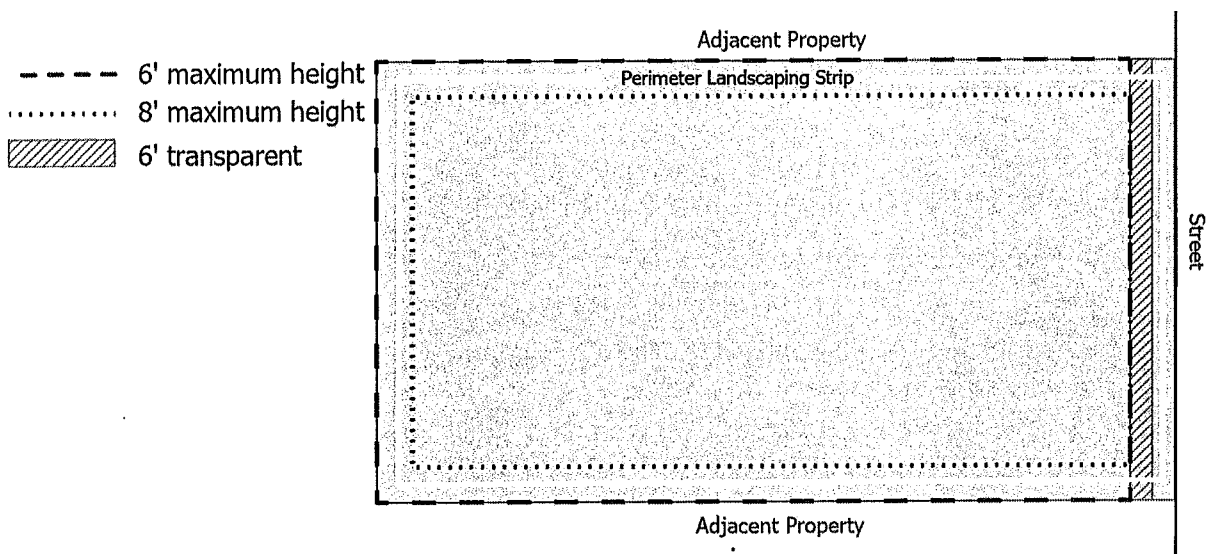


Figure 2 – Non-residential Fence

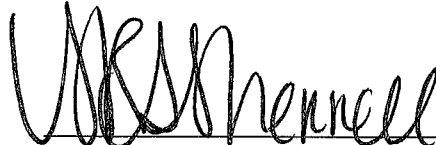
Section 7. Publication: This ordinance shall be published by an approved summary consisting of the title.

Section 8. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, would be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by State or Federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances. This ordinance shall be construed and enforced in a manner consistent with applicable state and federal law.

Section 9. Effective Date. This ordinance shall be in full force and effect five (5) days after a publication of a summary thereof.

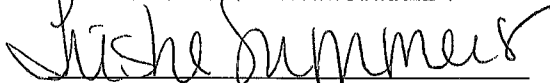
PASSED AND APPROVED by the City Council of the City of Milton, Washington, at a regular meeting thereof this 5th day of June, 2023.

CITY OF MILTON




Mayor Shanna Styron Sherrell

ATTEST/AUTHENTICATED:



Trisha Summers, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Andrew D. Tsoming
Ogden Murphy Wallace, PLLC

Published: 6/7/23
Effective Date: 6/12/23