

## ARTICLE VII. FENCES AND WALLS

### Sec. 6-91. *Short Title.*

This article shall be known as the “Milan Fence/Wall Ordinance.”

### Sec. 6-92. *Definitions:*

The following definitions are related to fences and walls:

- a. *Fences and walls:* Linear structures, partitions or continuous hedgerows maintained for the purpose of enclosing an area.
  - (1) *Chain-link fence:* A fence constructed of galvanized steel or similar materials as approved by the building official for the purpose of enclosing or securing an area. Chain-link fences shall not include wire fences or fences of similar construction.
  - (2) *Industrial fence:* A chain-link or ornamental fence of no more than eight feet in height and constructed of materials approved by the building official for the purpose of enclosing or securing an industrial use.
  - (3) *Living fence:* A continuous hedgerow of living plant material planted and maintained for the purpose of enclosing an area.
  - (4) *Ornamental fence:* A fence consisting of wrought iron, galvanized steel, aluminum, vinyl, wood or similar materials fabricated into a design with specific pattern elements or ornamentation. All spaces in the fence shall be open and unobstructed and the fence shall not block vision to an extent greater than 50-percent opacity. Opacity is the degree to which a fence is impervious to rays of light. This condition shall be measured by the observation of any two (2) square yard area of fence between one (1) foot above the ground level and the top of the fence. The observation shall be from a direction perpendicular to the place of the fence. Ornamental fences shall not include chain-link or wire fences or fences of similar construction.
  - (4) *Privacy fence:* a fence constructed of wood, vinyl or similar materials that blocks vision to an extent greater than 50 percent opacity for the purpose of obscuring or screening an area from public view.
  - (5) *Rail fence:* A fence constructed of wood, vinyl or similar materials and consisting of one to four horizontal rails connecting to vertical posts spaced a minimum of six feet apart. All spaces in such fences

shall be open and unobstructed and such fences shall not block vision to an extent greater than 40-percent.

- (6) *Temporary fence*: A fence constructed of canvas, plastic, chain-link, wood or similar material as approved by the building official for the purpose of enclosing or securing an area. Such fences shall not remain in place for a period greater than six (6) months unless approved by the building official.
  - (a) *Construction*: A fence erected for the purpose of securing a construction site against unauthorized access. The building official may require such fences as part of an approved permit.
  - (b) *Special Events*: A fence erected for the purposes of public safety at a special event. Such fences shall not be erected across public rights-of-way except as authorized by the City of Milan Police Department and Department of Public Works for special community events only.
- (7) *Decorative wall*: A masonry wall of no more than four feet in height, consisting of brick, stone or similar materials as approved by the building official and constructed with a design that includes specific pattern elements or ornamentation. All spaces in the wall shall be open and unobstructed.
- (8) *Obscuring wall*: A masonry wall no more than six feet in height consisting of brick, stone or similar materials as approved by the building official and constructed for the purpose of enclosing, obscuring or screening an area from view.
- (9) *Damaged fence or wall*: A fence or wall that is not properly secured, in danger of collapse or has otherwise been found by the building official to be in a damaged condition.
- (10) *Illegal fence or wall*: A fence that was illegally erected or installed, or a fence that is not in compliance with the provisions of this ordinance and does not meet the definition of a legal nonconforming fence.
- (11) *Legal nonconforming fence or wall*: A fence or wall which was legally erected or installed but is no longer in compliance with the provisions of this ordinance. Such fences or walls must be located outside of any existing right-of-way and wholly upon the parcel to which they are associated.

Sec. 6-93. *General requirements for fences and walls:*

- (a) *Construction and maintenance:* Fences and walls shall be securely constructed in conformance with this ordinance and all applicable building codes and shall consist of durable, weather-resistant materials as approved by the building official. Masonry piers may be used as part of a fence installation with the approval of the building official. Fences and walls shall be maintained in good order, painted, rust proofed or otherwise protected against damage and decay so as to present an orderly appearance.
- (b) *Hazards:* Fences and walls shall not be erected in a manner that obstructs free and clear vision or would be a hazard to traffic or pedestrians. Fences and walls shall not be erected within public rights-of-way.
- (c) *Orientation of finished side:* Fences that have one finished or decorative side shall be oriented with the finished or decorative side facing outward towards adjacent parcels and away from the interior of the lot to which the fence is associated. Masonry walls shall be finished in a similar manner on all sides.
- (d) *Site drainage and utilities:* Fences and walls shall not be erected in a manner that obstructs the free flow of surface water within or across the lot to which it is associated or the adjacent lots. Fences and walls shall not be erected in a manner that causes damage to underground utilities.
- (e) Fences and walls, including, but not limited to posts, foundations and overhanging elements, shall be located completely within the limits of the lot to which they are associated.
- (f) *Height and location requirements:*

<i>Type of Fence or Wall</i>	<i>Maximum Height (feet) (1)</i>		<i>Minimum Yard Setback (feet) (1)</i>	
	<i>Side</i>	<i>Rear</i>	<i>Side</i>	<i>Rear</i>
Chain-link fence	5	5	(2)	(2)
Living fence	-	-	(2)	(2)
Ornamental fence	6	6	(2)	(2)
Privacy fence	6	6	(2)	(2)
Rail fence	5	5	(2)	(2)
Industrial fence	8	8	10	10
Decorative wall	4	4	(2)	(2)
Obscuring wall	6	6	5	5

- (1) All required setbacks for fences and walls shall be measured from the property line or existing street right-of-way line. Height of such fences or walls shall be measured from the grade level to the highest point of the fence or wall.
- (2) Fences and walls located within required side and rear yards may be erected on the property line with the submission of written consent from all adjacent property owners or a letter from a licensed surveyor to the building official verifying the location of lot boundaries.
- (3) Fences and walls are not permitted within the required front yard of any zoning lot.
- (4) In the case of a corner lot, a fence may be permitted in all rear and side yards. Within the side yard that fronts the street, a fence may be permitted if it is beyond 25 feet of the public street right-of-way line and does not project past the front principal building corners. For the purpose of this section the side yard that fronts the street is the yard along the street not designated as the front street in the plat, the address or by the board of appeals.

*Sec. 6-94. Prohibited fences and walls.*

The following fences and walls are prohibited within the City:

- a. The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.
- b. No fences in any zoning district shall contain an electric charge or be connected with electric current.
- c. Obscuring walls, except where, for the purpose of establishing a buffer between adjacent land uses or ensuring public safety, the planning commission may approve such walls as part of an approved site plan.
- d. Wire fences, including chicken wire.
- e. Any fence or wall unlawfully installed, erected or maintained.

Sec. 6-95. *Permits required.*

A zoning permit shall be required for all work performed in association with the construction, alteration or relocation of a fence or wall, except where otherwise specified herein.

a. *Fences and walls for which a zoning permit is not required:*

- (1) *Repairs:* Repairs to an existing fence or wall with no structural changes.
- (2) *Gates:* The installation of gates of up to eight feet in width in an existing fence or wall with no structural changes.
- (3) *Short lengths of new fence:* Construction of less than eight feet of new fence, provided that such work is in compliance with the provisions of this ordinance and all applicable building codes.
- (4) *Living fences:* Planting of continuous hedgerows or similar landscape features.

b. *Permit application:* Applications for permits shall be made upon forms provided by the Building Department. The following information shall be provided with the application:

- (1) *Plot plan and construction drawings:* A plot plan or lot survey shall be provided that includes the location of all existing and proposed fences, walls, structures, easements and setback dimensions. A detail of the proposed fence or wall with all appropriate dimensions shall also be provided.
- (2) Written consent of all adjacent property owners, or a letter from a licensed surveyor to the building official verifying the location of lot boundaries, if a fence or wall is proposed to be erected or installed on a property line.
- (3) Other information that the building official may require to show full compliance with this and all other City ordinances.
- (4) The applicant will remit payment for the Zoning Permit as established in the City's Official Fee Schedule by Resolution of the City Council.

5. *Legal nonconforming fences and walls:* All existing legal nonconforming fences or walls shall be permitted to continue as such until removed,

extended or altered, at which time such fences or walls shall be made to conform to the provisions of this ordinance.

6. *Removal of illegal or damaged fences or walls:* Damaged or illegal fences or walls shall be immediately repaired, replaced or removed by the owner, agent or person having the beneficial use of the building or structure upon which said fence or wall shall be found. Upon identification of a damaged or illegal fence or wall, the building official shall order the property owner to remove such or make repairs within ten day.

Sec. 6-96. *Fences on Public Land.*

Fences which enclose public parks, playgrounds, and buildings shall be permitted in any required yard in any zoning district. Fences which enclose public utility installations shall not be permitted within a required front yard or within any required side yard in any residential zoning district, but may be permitted in any required yard of any other zoning district.

Sec. 6-97. *Appeals.*

Upon appeal in writing by any person directly or indirectly affected hereby, the Building and Safety Board of Appeals of the City of Milan may, after hearing in accordance with the established procedure of the board, in its sound discretion and in the interest of the public health, safety and welfare of the inhabitants of the community, reduce or remit the requirements of this article for construction of fences in individual cases.

Sec. 6-98 *Violations.*

- (a) Violation of any provision of this article shall constitute a municipal civil infraction. Upon an admission or determination of responsibility for such municipal civil infraction, the violator shall be subject to a civil fine and costs in amounts specified in the Official Municipal Civil Infraction Fines and Costs Schedule adopted by resolution of the city council. Each day that a violation of any provision of this article is permitted to exist shall constitute a separate violation or infraction.
- (b) The penalties specified in this section shall be in addition to and not in lieu of any other remedy that the city may have at law and/or in equity.