

CITY OF MILPITAS

Building & Safety Department
455 E. Calaveras Blvd.
Milpitas, CA 95035
408-586-3240
www.ci.milpitas.ca.gov



RESIDENTIAL FENCE OR RETAINING WALL

1. PERMIT INFORMATION:

- ❑ A permit is required for fences over 7 feet in height, measured from the lowest finished grade to the top fence surface, board, rail, cap or wire, all swimming pool/spa fences regardless of height and retaining walls over 4 feet in height measured from the bottom of the footing to the top of the wall and all walls supporting a surcharge.
- ❑ The Permit for the projects above require drawings that must be reviewed and approved by the Building & Safety Department, Planning Department and Engineering Department. Therefore the permit will have to be obtained in person at the Permit Center, 455 E. Calaveras Blvd.
- ❑ **Homeowners Association:** If the property is regulated by a Home Owners Association, any exterior work must have approval of the Association. It is the property owner's responsibility to obtain the approval.
- ❑ A Permit may be issued only to a State of California Licensed Contractor with the proper license classification or the Homeowner.
- ❑ If the work is performed by the Homeowner personally or by his/her workers, and an inspection indicates the work cannot be completed satisfactorily, then a licensed contractor must perform the work.
- ❑ If the Homeowner hires workers, State Law requires the Homeowner to obtain Worker's Compensation Insurance. Proof of this insurance is required prior to inspection.

2. PLANS REQUIRED:

Plans are required to be submitted and approved by the City to obtain a building permit. In order to expedite issuance of your permit, submit complete sets of plans. Incomplete submittals will cause delay in the approval of your project. If you have any questions, contact Building & Safety Department staff at City Hall or at the phone number above.

Refer to "*Design Guidelines for Residential Wood Fence*" for sample of the plans required for a wood fence project. Refer to "*Design Guidelines for Residential Retaining Wall*" for sample of the plans required for a retaining wall project. Refer to "*Design guidelines for Footing and Pool on or Adjacent to Slopes*" for design of walls and slopes near foundations.

I. PLAN REQUIREMENTS:

- ❑ **Plan Size:** Prepare plans on paper that is at least 17 inches x 11 inches in size.
- ❑ **Sets of Plans:** Submit three (3) complete sets of plans.
- ❑ **Dimensions:** All drawings shall be shall be fully dimensioned. Plot plans shall have a north arrow.
- ❑ **Architect or Engineer:** Fences supporting soil and/or located on the Hillside shall be designed by a licensed Architect or Engineer.

II. PROJECT INFORMATION - On the first sheet of the plans, provide the following information:

- ❑ **Name:** The printed name, address and telephone number of the person who prepared the plans.
- ❑ **Address and Owner:** List the street address of the property and the name of the legal owner of the property.
- ❑ **Description:** A description of the project.
- ❑ **Building Codes:** State the project shall comply with the following codes: 2016 California Residential Code (CRC) or 2016 California Building Code (CBC) and 2016 Milpitas Municipal Code (MMC).

III. ARCHITECTURAL PLANS

- ❑ **Site (Plot) Plan:** Show the property lines, location of all existing structures, location of easements, location of adjacent streets or alleys, and the location of existing and proposed fencing and/or retaining wall.
- ❑ **Details and Notes:** Include all construction details. Provide all necessary notes to explain the planned construction.

3. OTHER APPROVALS:

- ❑ **Engineering Department:** Prior to completion of any plans, the Engineering Department should be contacted at (408) 586-3329 to find out the requirements due to the location of any easements and for sight distance clearance along with the possible need for an encroachment permit for any work in the right-of-way.
- ❑ **Planning Department:** Prior to completion of any plans, the Planning Department should be contacted at (408) 586-3279 to find out the requirements due to the location and type of the proposed fence. See below for a copy of MMC Section XI-10-54.10.
- ❑ **Home Owners Association:** If the property is regulated by a Home Owners Association, any exterior work must have approval of the Association. It is the property owner's responsibility to obtain the approval.

4. SMOKE ALARMS, CARBON MONOXIDE ALARMS & SPARK ARRESTERS:

- ❑ In single family and multi-family residences (including townhomes, condominiums and apartments), installation of smoke alarms, carbon monoxide alarms and spark arresters on all chimneys is required prior to the final inspection. Refer to the "*Smoke Alarm, Carbon Monoxide Alarm and Spark Arrester Certificate*" attached for detailed information.

5. INSPECTION PROCEDURES:

- ❑ Two inspections are required, one prior to placement of any concrete and a final inspection after all work is complete. For each inspection, the Permit Card and the Approved Job Copy of the Drawings must be presented to the inspector. Permits expire 180 days after issuance or last inspection passed, whichever is the latest.

6. QUESTIONS:

- ❑ If you have any questions regarding your project contact the Building & Safety Department at (408) 586-3240.

NOTES:

- ❑ **Revisions:** Once the permit has been issued, any changes in the design must be approved by the City. If an Architect or Engineer prepared the approved plans, he or she must approve the revised plans prior to being submitted to the City for approval. Additional fees will be due for each revision at time of submittal.

The following Planning Department requirements are provided for reference:

Municipal Code Section XI-10-54.10 Fences and Walls

A. Purpose and Intent. The purpose and intent of this section is to establish standards for fences and walls and similar screening that limit their visual and traffic impacts, but allow for the privacy and architectural interest afforded by such structures. The purpose of a stricter fence or wall height limit in the front yard is to provide for an open street scene, to allow the primary structures on a street to be visible and to contribute to the visual character of the neighborhood, and to allow for unobstructed views of traffic to and from driveways.

This section establishes standards for all fences and walls, including those not requiring a Building Permit. (For information regarding whether a fence or wall requires a Building Permit, please contact the City's Building Division).

B. Standards for Fences and Walls in All Zones. Unless otherwise provided for in the specific standards for individual zones, the following standards shall apply to fences and walls and to all structural elements supporting the fences, walls and hedges, including pilasters, trellises, etc. In addition to the regulations set forth in this section, all fences and walls shall be constructed and maintained so that they do not constitute a hazard to traffic, persons or property.

1. Measurement of Fence and Wall Height. The height of a fence or wall shall be measured from the finished grade to the top of fence or wall at any point (including barbed-wire tops). Where the finished grade is a different elevation on either side of the fence or wall, the height may be measured from the side having the highest elevation.

2. Prohibited Fences. Barbed wire fences within four (4) feet of a public sidewalk, electrically charged fences and fences which interfere with public utilities or public easements are not permitted.

C. Standards for Fences and Walls on the Valley Floor.

1. Height Limitations. Fences and walls shall not exceed six (6) feet in height at the rear and side yards, and forty-two (42) inches in height at the front yard.

2. Exceptions:

- a. For any nonresidential or new multi-family projects and single-family tract projects within a zoning district combined with the "S" Overlay District, fences at the rear and side yards may be eight (8) feet maximum height when approved by the Planning Commission through a Site Development Permit.
- b. In all zoning districts, fences at the rear or side yard adjacent to recreational areas, athletic fields or courts may be twelve (12) feet maximum height provided that the portion of the fence higher than six (6) feet is of approved openwork.
- c. In all zoning districts, fences at the front yard and within thirty-five (35) feet of a street corner shall be of approved openwork.
- d. In residential zoning districts fences at the rear and side yards may exceed six (6) feet but not exceed eight (8) feet in height **provided written consent of adjoining residential property owners is received**. See Building Code for permit requirements for fences exceeding six (6) feet in height.
- e. In any Commercial or Industrial zoning district, fences or walls used for the purpose of screening or providing security to mechanical equipment such as but not limited to air conditioning units, chemical tanks or tank farms or the like, may exceed six (6) feet in height subject to the provisions of Section XI-10-54.16, Trash Enclosures, Equipment and their Screening of this Chapter.

D. Standards for Fences and Walls within the Hillside District.

1. Height Limitations. Fences or walls shall not exceed fifty-four (54) inches in height, and be an openwork design, and may be located anywhere on the parcel. No city review of this type fence is required.

2. Construction Materials. All fence post and supporting framework material shall be wood in order to maintain the rural character of the hills. The Planning Commission, under the "H" Combining District review process (Section XI-10-45.09, Site and Architectural Review, of this Chapter), may approve any other type material for the posts with a Site Development Permit (Section XI-10-57.03, Site Development Permits, of this Chapter).

3. Openwork Design. Openwork type fences shall be comprised of materials which results in a minimum of seventy-five percent (75%) visual transparency within every square foot area, posts excluded. Chain link fences and cyclone type fences are not considered an approved material in the area.

4. Exceptions:

- a. In any zoning district combined with the "H" Combining District fences at the rear and side yards which exceed fifty-four (54) inches in height and those fences other than an openwork design may be constructed on a parcel or lot, if and when their location and design have first been approved by the Planning Commission under the "H" Combining District review process (Section XI-10-45.09, Site and Architectural Review, of this Chapter) with a Site Development Permit (Section XI-10-57.03, Site Development Permits, of this Chapter).

- b. In any zoning district combined with the "H" Combining District fences around tennis courts, and the like as determined by the Planning Commission, under the "H" Combining District review process (Section XI-10-45.09, Site and Architectural Review, of this Chapter) with a Site Development Permit, (Section XI-10-57.03, Site Development Permits, of this Chapter), may be eight (8) feet maximum height provided that the portion of the fence higher than six (6) feet is an approved openwork design. Chain link fencing may be used, in this case, as an approved openwork design. The Planning Commission, under the "H" Combining District review process, may approve fences over eight (8) feet in height with a Site Development Permit.

All tennis courts and the like shall be screened from view from the valley floor with landscape materials, as outlined in the City Council Hillside Landscape Policy, with said landscaping to the approval of the Planning Commission under the "H" Combining District review process (Section XI-10-45.09, Site and Architectural Review, of this Chapter) with a Site Development Permit, (Section XI-10-57.03, Site Development Permits, of this Chapter).

- c. Barbed wire fences, using a post material other than wood, may be erected on any parcel two (2) acres or more without Planning Commission review or approval.



SMOKE ALARM, CARBON MONOXIDE ALARM and SPARK ARRESTER CERTIFICATE

This "Certificate" can be signed by the property owner and provided to the Building Inspector prior to final inspection if access to the interior of the dwelling for inspection of the smoke and carbon monoxide alarms is not possible and the permitted is exterior only (such as re-roofing, re-siding, patio covers, swimming pools and the like).

In single family and multi-family residences (including townhomes, condominiums and apartments), installation of smoke alarms, carbon monoxide alarms and spark arresters is required prior to the final inspection as follows: (CRC R314 & R315 and CBC 907.2.11)

Smoke Alarms listed in accordance with UL 217, listed and approved by the California State Fire Marshal and tested & maintained in accordance with the manufacturer's instructions shall be installed in existing or new dwellings as follows: **in each sleeping room, outside each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling.** In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. Alarms that no longer function shall be replaced. New smoke alarms that are solely battery powered must have a non-replaceable and non-removable battery capable of powering the smoke alarm for at least 10 years. Fire alarm systems shall be permitted in lieu of smoke alarms if they comply with the provisions of NFPA 72. The installation of smoke alarms and smoke detectors shall also comply with the following requirements:

1. Smoke alarms shall not be located where ambient conditions, including humidity and temperature, are outside the limits specified by the manufacturer's published instructions.
2. Smoke alarms shall not be located within unfinished attics or garages or in other spaces where temperatures can fall below 40°F or exceed 100°F.
3. Where the mounting surface could become considerably warmer or cooler than the room, such as a poorly insulated ceiling below an unfinished attic or an exterior wall, alarms shall be mounted on an inside wall.
4. Smoke alarms shall be installed a minimum of 20 feet horizontal distance from a permanently installed cooking appliance, except Ionization smoke alarms with an alarm-silencing switch or Photoelectric smoke alarms shall be permitted to be installed 10 feet or greater from a permanently installed cooking appliance and Photoelectric smoke alarms shall be permitted to be installed greater than 6 feet from a permanently installed cooking appliance where the kitchen or cooking area and adjacent spaces have no clear interior partitions and the 10 foot distances would prohibit the placement of a required smoke alarm or smoke detector. Smoke alarms listed for use in close proximity to a permanently installed cooking appliance can be installed in accordance with their listing.
5. Smoke alarms shall be installed not less than a 3 foot horizontal distance from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by the code.
6. Smoke alarms shall not be installed within a 36 inch horizontal path from the supply registers of a forced air heating or cooling system and shall be installed outside of the direct airflow from those registers.
7. Smoke alarms shall not be installed within a 36 inch horizontal path from the tip of the blade of a ceiling-suspended (paddle) fan.
8. Where stairs lead to other occupied levels, alarm shall be located so that smoke rising in the stairway cannot be prevented from reaching the alarm by an intervening door or obstruction.
9. For stairways leading up from a basement, alarms shall be located on the basement ceiling near the entry to the stairs.
10. For tray-shaped ceilings (coffered ceilings), alarms shall be installed on the highest portion of the ceiling or on the sloped portion of the ceiling within 12 inch vertically down from the highest point.
11. Smoke alarms installed in rooms with joists or beams shall comply with the requirements of NFPA 72.
12. Heat alarms and detectors installed in rooms with joists or beams shall comply with NFPA 72.

Carbon Monoxide Alarms listed in accordance with UL 2034, or combination carbon and smoke alarm listed in accordance with UL2034 and UL217, listed and approved by the California State Fire Marshal and installed and maintained in accordance with the manufacturer’s instructions shall be installed in existing or new dwellings having a fuel-fired appliance, fireplace or an attached garage with an opening communicating with the dwelling as follows: **outside each separate sleeping area in the immediate vicinity of bedroom(s) and on every occupiable level of a dwelling unit.** If there is a fuel-burning appliance located with a bedroom or its attached bathroom, an alarm shall be located within the bedroom.

Power supply: Smoke and carbon monoxide alarms shall receive their primary power from the building wiring and shall be equipped with a battery back-up. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection. Smoke and carbon monoxide alarms are permitted to be solely battery operated (carbon monoxide alarms can also be plug-in with battery back-up) in existing buildings where no construction is taking place; in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure unless there is an attic or crawl space available which could provide access for building wiring without the removal of interior finishes; where repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck; or when work is limited to the installation, alteration or repairs of plumbing or mechanical systems or the installation, alteration or repair of electrical systems which do not result in the removal of interior wall or ceiling finishes exposing the structure.

Interconnection: Where more than one smoke or carbon monoxide alarm is required to be installed within an individual dwelling or sleeping unit, the alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit, except interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind; where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure unless there is an attic or crawl space available which could provide access for interconnection without the removal of interior finishes; where repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck; or when work is limited to the installation, alteration or repairs of plumbing, mechanical or electrical systems which do not result in the removal of interior wall or ceiling finishes exposing the structure.

Spark arresters: When a permit has been issued and the value of the work exceeds \$1,000, a spark arrester must be installed on all fireplace chimneys if one does not already exist, per MMC Section II-3-2.06. Spark arresters shall be constructed in conformance with CRC Section 1003.9.2.

*** CERTIFICATION ***

I understand the above requirements and certify that I now have smoke alarms, carbon monoxide alarms and spark arrestors installed as required above.

HOMEOWNERS NAME (please print): _____

ADDRESS: _____

SIGNATURE: _____

DATE: _____ PERMIT NO. _____