

Chapter 17.38 GENERAL PROVISIONS

17.38.005 General provisions.

- A. Storage. Wherever storage is authorized and allowed in this title on whatever classification of property, such storage layout and arrangement shall be orderly and maintained as to avoid the creation of a fire hazard and as to prevent an unsightly appearance.
- B. Front Yard. Where any front yard is required, no building shall be hereafter erected or altered so that any portion thereof shall be nearer the front ~~property lot~~ line than the distance indicated by the depth of the required front yard / front setback.

Exceptions:

1. ~~e~~Eaves, cornices and fireplaces may be built within the front yard provided they do not extend more than two feet from the building.
2. Steps, terraces, platforms, ramps, and porches having no roof covering, and being not over forty-two (42) inches in height, may be built within a front yard, provided they do not extend more than five feet from the building and are not greater than ~~twentyseventy~~-five (2575) square feet total.

- C. Side Yard. Where any specified side yard is required, no building shall hereafter be erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated by the width of the required side yard / side setback.

Exceptions:

1. ~~e~~Eaves, cornices and fireplaces may be built within the side yard, provided they do not extend more than two feet from the building.

- D. Rear Yard: Where any specified rear yard is required, no building shall hereafter be erected or altered so that any portion of thereof shall be nearer to the rear lot line than the distance indicated by the depth of the required rear yard / rear setback.

Exceptions:

1. ~~e~~Eaves, cornices and fireplaces may be built within the rear yard, provided they do not extend more than two feet from the building.
2. Steps, platforms, ramps, and rear porches, whether enclosed or not, but not exceeding in width one-half that of the building nor being more than one story in height, may be built within a rear yard, provided they do not extend more than ten feet from the building.

~~E. Fences, Rear and Rear-Side Yard.~~

- ~~1. Rear and rear-side fences shall not exceed six feet in height.~~
- ~~2. Side yard fences between residences or main buildings may not exceed six feet in height.~~
- ~~3. Front and front-side fences may not exceed forty-two (42) inches in height.~~
- ~~4. Hedges, shrubbery, or other materials used in lieu of a fence and not a part of a landscaping requirement, yet servicing the same function as a fence, shall be considered a fence.~~

~~5. Barbwire and similar fencing material shall not be used for fencing, nor shall electric fences be installed.~~

~~6. Permits are required for the construction or rebuilding of any fence.~~

E. Fences

1. Permits are required for the construction or rebuilding of any fence.

2. Front and front-side (the distance of the required front yard setback) fences may not exceed forty two (42) inches in height.

3. Rear and rear-side fences, and any side yard fence between residences or main buildings, shall not exceed six feet in height.

4. Hedges, shrubbery, or other materials used in lieu of a fence and not a part of a landscaping requirement, yet serving the same function as a fence, shall be considered a fence.

5. Barbwire and similar materials are prohibited for use as fencing material.

6. Electrified fences are prohibited.

7. Fences, materials used in lieu of a fence, and landscaping shall meet clear view triangle requirements, as determined by the Planning Director and/or City Engineer.

F. Sidewalks, trails, shared roadways, and complete streets.

The construction of sidewalks shall be required for streets and roadways classified as principle and collector arterials prior to development or change of use under the following conditions:

1. Sidewalks shall be constructed on both sides of principle arterials. Principle arterials as defined in the Millwood comprehensive plan are those streets or roadways connecting primary community centers with major facilities. Streets and roadways that are classified as principal arterials are identified in the Millwood comprehensive plan.

2. Sidewalks shall be constructed on one side of collector arterials. Collector arterial sidewalk location determination shall be made by the ~~Public Works Director or designee~~ public works director to ensure safe, convenient, comfortable, continuous and connected pedestrian travel. Collector arterials as defined in the Millwood comprehensive plan are those streets or roadways connecting residential neighborhoods with smaller community centers and facilities as well as access to minor and principle arterial system. Streets and roadways that are classified as collector arterials are identified in the Millwood comprehensive plan.

3. All development as defined in ~~Section 17.16.065~~ Appendix A of this title and all changes of use requiring a permit which are located along principal and collector arterials shall require the construction of sidewalks as set forth above. Sidewalks shall also be required on access streets when sidewalks are already constructed along the street or when needed for pedestrian safety, as determined by the City. The provisions of this section shall not apply to the repair, remodel, alteration, addition or replacement of an existing ~~single-family~~ residences or accessory buildings or construction of new accessory buildings provided the principal and primary use ~~is and~~ remains single-family a residence.

4. All sidewalk construction requires submittal of engineered plans to the city of Millwood. The city of Millwood shall review and approve plans prior to commencement of construction of sidewalks. Plans shall be developed in accordance with Spokane County standards and all Americans with Disabilities Act requirements at the time of submittal.

5. Sidewalks, even if they are not required by the city of Millwood, shall be constructed according to approved plans as required above.

Refer to the adopted Millwood Comprehensive Plan for specific sidewalk, trail, shared roadway, and/or complete street improvement location priorities.

G. Clear view triangle.

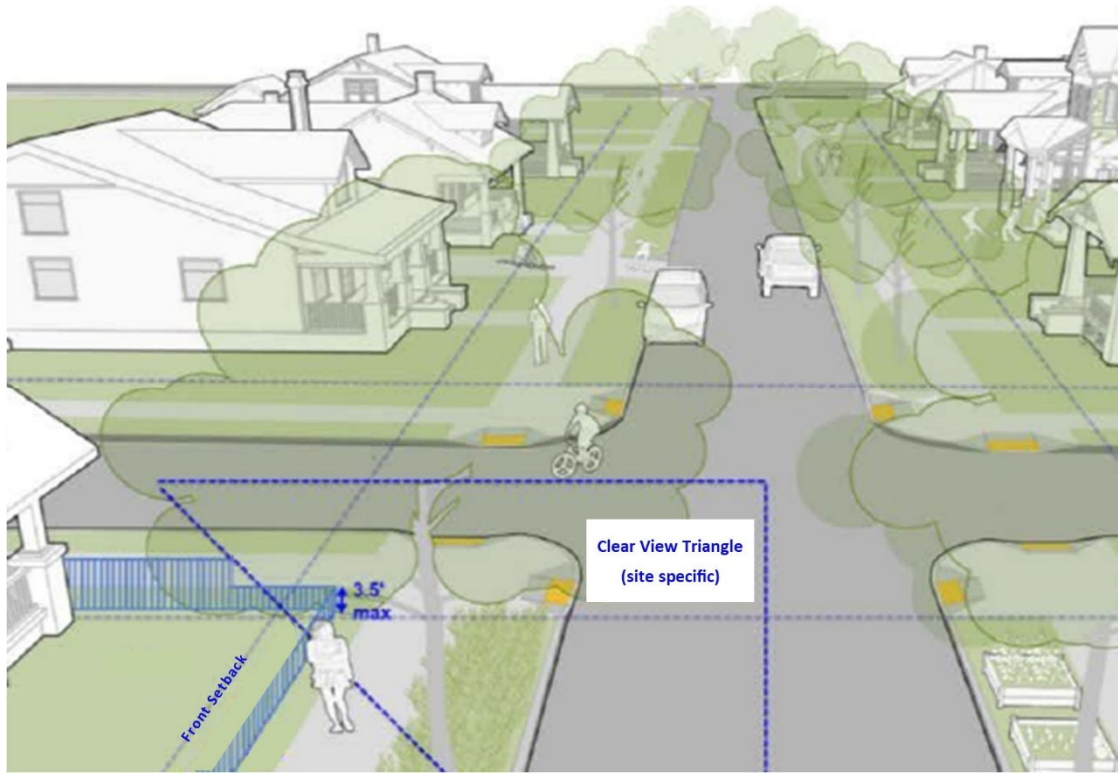
Neither residential, commercial or industrial fencing, nor any sight obstruction which constitutes a hazard to the traveling public, shall be permitted on any corner lot in any district zone within the area designated as the "clear view triangle" as set forth below:

1. A clear view triangle is a measurement applied at the intersection of two streets or the intersection of an alley or driveway and a street to ensure unobstructed vision of motorists and pedestrians. Within the clear view triangle, the space between thirty-six (36) inches and ~~seven~~ eight feet above the street must be unobstructed. The clear view triangle is calculated as follows:
 - a. Uncontrolled Intersection. The right triangle having sides of thirty (30) feet measured along the property line of each intersecting street /alley / driveway;
 - b. Two-Way Stop Controlled Intersection. The right triangle having a ten-foot side measured along the property line of a local access street, alley, commercial driveway or residential driveway serving three or more residences, and the distance shown on the following table based on posted speed along the property line of the intersecting street:

(1) Two-Way Stop Controlled

Posted Speed (in MPH)	Distance (in Feet)
25	40

- c. Yield-Controlled Intersection. For intersections of local streets with twenty-five (25) miles per hour speed limits, the right triangle having a twenty-foot side measured along the property line of the yield-controlled street, and a sixty-foot side measured along the property line of the intersecting street. Triangles for yield-controlled intersections on collectors or arterials, or streets with speeds higher than twenty-five (25) miles per hour, will be determined by the Public Works Director or designee; or
 - d. The Public Works Director or designee ~~public works supervisor~~ will determine the dimensions of the clear view triangle in cases including, but not limited to, signal-controlled intersections, arterials with posted speeds in excess of twenty-five (25) miles per hour, one-way streets, steep grades and sharp curves.



2. Exemptions. Clear view triangle regulations of this chapter shall not apply to:
 - a. Public utility poles;
 - b. Trees, so long as they are not planted in the form of a hedge and are trimmed to a height of at least ~~seven-eight~~ feet above the street surface;
 - c. Properties where the natural ground contour penetrates the clear view triangle; and
 - d. Traffic control devices installed by the city.

- H. Administrative Exceptions. An administrative exception may be approved for the following ~~when~~:
 - ~~a. Where the required setback is greater than five feet, a deviation of five feet or less~~
 - ~~b. Minimum lot area where the deviation is for ten percent or less of the required lot area.~~
 - ~~c. Maximum impervious coverage where the deviation is for ten percent or less of the maximum impervious coverage.~~
 1. Any dimensional requirement which does not exceed one foot.
 2. A setback deviation of up to four feet, when the required setback is five feet or greater and the deviation will not result in a building or fire code violation.
 3. Minimum lot area requirements where the deviation is for 10% or less of the required lot area.
 4. Minimum lot width requirements where the deviation is for 10% or less of the required lot width.
 5. Maximum building coverage or lot coverage requirements where the deviation is for 25% or less of the maximum building / lot coverage.

6d. Any improved property rendered nonconforming through voluntary dedication of right-of-way, the exercise of eminent domain proceedings or purchase of right-of-way by the city, county, state, or federal agency.

7. Exceptions required to meet current RCW/WAC requirements.

Decision Criteria. The city planner shall approve, approve with conditions, or deny administrative exceptions based on the following criteria, as applicable:

- a. The administrative exception does not interfere with or negatively impact the operations of existing land uses and all legally permitted uses within the zoning districtzone it occupies;
- b. The exception may not increase density beyond what is currently allowed within the zoning districtzone;
- c. The exception shall not be contrary to conditions imposed by any other associated land use action, for example, a hearing examiner decision, or conditions associated with applicable plat approvals;
- d. The exemption is in harmony with the purpose and intent of the general plan for the physical development of the vicinity and zone in which the exemption will apply.
- e. The exception shall not conflict with other local, state, or federal laws; and
- f. The exception does not adversely impact the public health, safety, and welfare within the city.

1. Alternative methods of compliance

The Planning Director or designee, in consultation with the Public Works Director, Building Official and/or City Engineer, as applicable, may accept alternative methods of complying with the development standards of this Code, provided it could be demonstrated that the alternative method is at least equivalent to such standards in terms of implementing the general purpose of the Code and/or applying Blue Zone principles (as defined in Appendix A). The Planning Director or designee shall not accept alternative methods of compliance that are inconsistent with the City Comprehensive Plan or with conditions of approval imposed through a land use action. Decisions on Alternative Methods of Compliance need to be documented in the project file and can be appealable in the same manner as administrative appeals under MMC 14.12.140. The Planning Director or designee shall periodically forward decisions on Alternative Methods of Compliance to the Planning Commission for its information.

~~1. Sidewalks. The construction of sidewalks shall be required for streets and roadways classified as principle and collector arterials prior to development or change of use under the following conditions:~~

- ~~1. Sidewalks shall be constructed on both sides of principle arterials. Principle arterials as defined in the Millwood comprehensive plan are those streets or roadways connecting primary community centers with major facilities. Streets and roadways that are classified as principal arterials are identified in the Millwood comprehensive plan.~~
- ~~2. Sidewalks shall be constructed on one side of collector arterials. Collector arterial sidewalk location determination shall be made by the public works director to ensure safe, convenient, comfortable, continuous and connected pedestrian travel. Collector arterials as defined in the Millwood comprehensive plan are those streets or roadways connecting residential neighborhoods with smaller community centers and facilities as well as access to minor and principle arterial system. Streets and roadways that are classified as collector arterials are identified in the Millwood comprehensive plan.~~

3. All development as defined in Appendix A of this title and all changes of use requiring a permit which are located along principal and collector arterials shall require the construction of sidewalks as set forth above. The provisions of this section shall not apply to the repair, remodel, alteration, addition or replacement of existing single family residences or accessory buildings or construction of new accessory buildings provided the principal and primary use is and remains single family residence.
 4. All sidewalk construction requires submittal of engineered plans to the city of Millwood. The city of Millwood shall review and approve plans prior to commencement of construction of sidewalks. Plans shall be developed in accordance with Spokane County standards and all Americans with Disabilities Act requirements at the time of submittal.
 5. Sidewalks, even if they are not required by the city of Millwood, shall be constructed according to approved plans as required above.
- J. Neither residential, commercial or industrial fencing, nor any sight obstruction which constitutes a hazard to the traveling public, shall be permitted on any corner lot in any district within the area designated as the "clear view triangle" as set forth below:
1. A clear view triangle is a measurement applied at the intersection of two streets or the intersection of an alley or driveway and a street to ensure unobstructed vision of motorists and pedestrians. Within the clear view triangle, the space between thirty-six (36) inches and seven feet above the street must be unobstructed. The clear view triangle is calculated as follows:
 - a. Uncontrolled Intersection. The right triangle having sides of thirty (30) feet measured along the property line of each intersecting street;
 - b. Two-Way Stop-Controlled Intersection. The right triangle having a ten-foot side measured along the property line of a local access street, alley, commercial driveway or residential driveway serving three or more residences, and the distance shown on the following table based on posted speed along the property line of the intersecting street:

Posted Speed (in MPH)	Distance (in feet)
25	40
 - c. Yield-Controlled Intersection. For intersections of local streets with twenty-five (25) miles per hour speed limits, the right triangle having a twenty-foot side measured along the property line of the yield-controlled street, and a sixty-foot side measured along the property line of the intersecting street. Triangles for yield-controlled intersections on collectors or arterials, or streets with speeds higher than twenty-five (25) miles per hour, will be determined by the city traffic engineer; or
 - d. The public works supervisor will determine the dimensions of the clear view triangle in cases including, but not limited to, signal-controlled intersections, arterials with posted speeds in excess of twenty-five (25) miles per hour, one-way streets, steep grades and sharp curves.
 2. Exemptions. Clear view triangle regulations of this chapter shall not apply to:
 - a. Public utility poles;
 - b. Trees, so long as they are not planted in the form of a hedge and are trimmed to a height of at least seven feet above the street surface;

c. ~~Properties where the natural ground contour penetrates the clear view triangle; and~~

d. ~~Traffic control devices installed by the city.~~

J. Level of service (LOS)

Development must be reviewed for compliance with adopted city level of service standards (water, sewer, transportation including multimodal, and parks and recreation). Refer to Millwood Comprehensive Plan Section 8.6 Level of Service Standards, Section 11.4 City of Millwood Capital Facility Level of Service Standards, and Section 11.6 Capital Facilities, Utilities, and Services Summary, as amended.

K. Airport Compatibility.

1. The airport compatibility zone (ACZ) is designated on the official zoning map.
2. Prior to the issuance of a commercial building permit or any land use permit within the airport compatibility zone, a copy of the proposal shall be routed to the appropriate official(s) at Felts Field Airport for review and comment.
3. The calculated density in the ACZ shall be no greater than one hundred eighty (180) persons per acre after subtracting public rights-of-way. However, higher density may be allowed by the city council if it is deemed to be compatible with Felts Field Airport and Washington State Department of Transportation - Aviation guidelines, as a conditional use following the procedures contained in Sections 17.44.070 through 17.44.130.

(Ord. No. 527, § 1, 6-14-2022)

17.38.010 Ownership divided by a zoning district boundary line.

If a zoning boundary line cuts a property having a single ownership as of record at the time of passage of the ordinance codified in this title, all such property may take the least restrictive classification, provided that at least forty (40) percent ~~by of the~~ area of the entire property is located in the district zone having the least restrictive classification. This provision applies to single parcels only.

(Ord. No. 527, § 1, 6-14-2022)

17.38.020 Nonconforming uses.

Determination of legal nonconforming status of a lot, use or structure is an administrative function of the planning department. Property owners asserting legal nonconforming status of a lot, use or structure shall submit such information as the planning department deems necessary to substantiate or document the claim of legal nonconforming status.

- A. Legal nonconforming lots are lots of record established prior to the adoption of this Code or an amendment thereto and shall be considered a buildable lot even though such lots fail to meet the requirements for frontage / front lot width or lot area that are generally applicable in the zone, provided that yard setbacks and requirements other than frontage / front lot width or lot area shall conform to the regulations for the zone in which such lot is located.
- B. When a political subdivision of the state of Washington acquires a portion of a lot, tract, or parcel of land and as a result thereof, reduces such lot, tract, or parcel of land in area and/or frontage by not more than ten percent of the minimum requirements of the underlying use within the zone classification, such lot, tract, or parcel of land shall be deemed to be a legal nonconforming lot with respect to area and/or frontage. A legal nonconforming lot status resulting from an acquisition under this subsection shall run with the land and the status of the legal nonconforming lot shall be perpetual

and continuous absent a subsequent amendment of the zoning code, regardless of whether the legal nonconforming lot is actually being used or not.

- C. A use which was lawfully established and in existence and which became or becomes nonconforming by amendment to the zoning code is a legal nonconforming use. The term legal nonconforming use refers only to a single existing use and does not include all uses to which the property could have been put under a prior zoning ordinance or classification.
1. A legal nonconforming use which remains unoccupied or unused for a continuous period of one year is considered abandoned and shall not thereafter be occupied or used except by a use which conforms to the regulations of the district-zone in which the use is located.
 2. A legal nonconforming use which remains unoccupied or unused for a continuous period of less than one year may be reoccupied only by the same nonconforming use or by a conforming use.
 3. A legal nonconforming use shall not be expanded or extended. The extension of a legal nonconforming use to any other portion of the building or structure which was originally arranged or designed for such nonconforming use shall not be deemed the extension of a legal nonconforming use. A structure containing a legal nonconforming use may be maintained in conformance with the standards of the adopted building codes.
- D. A legal nonconforming structure is one that was established prior to the adoption of this Code or an amendment thereto.
1. Restoration of a legal nonconforming structure which is damaged by fire, flood or act of nature shall be initiated, as evidenced by the issuance of a valid building permit, within one year of the date of such damage or destruction, and the restoration shall be completed within one and one-half years from the permit issue date.
 2. Repair and maintenance of legal nonconforming structures is allowed.
 3. Reconstruction of a legal nonconforming structure shall be permitted in compliance with the building and fire codes.
 34. A nonconforming structure which contains a conforming use shall be allowed to expand, provided that the structure ~~is not out of compliance with the code by greater than a total of ten percent and~~ is not a danger to health or life safety, and further provided that the alteration or extension does not result in further violation of this Code.
 4. ~~When a lot contains a legal nonconforming structure, other structures may be placed on the lot provided none of the existing legal nonconforming structures are out of compliance with any one section of the current code by greater than ten percent.~~
 5. Per RCW 35A.21.440, the city shall not deny a building permit application for the addition of housing units within an existing building due to nonconformity regarding parking, height, setbacks, elevator size for gurney transport, or modulation, unless the Planning Director or designee makes written findings that the nonconformity is causing a significant detriment to the surrounding area; however, the city is not required to approve a building permit application for the addition of housing units constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing in cases in which the building cannot satisfy life safety standards. Refer to Appendix A for the definition of an existing building.
- E. If a lot is out of compliance with site development standards (stormwater control, landscaping, paving, etc.), any modifications to the site would need to reduce the non-conformity, as reviewed by the Planning Director.

17.38.030 Green Infrastructure & Low-Impact Development (LID).

Properties located in the Millwood Central Business District (CBD), as identified in the Millwood Comprehensive Plan, Appendix A, may utilize green infrastructure and LID practices, as approved by the Millwood City Engineer and in compliance with the Spokane Regional Stormwater Manual, as amended, to capture, filter, and infiltrate stormwater. Options may include permeable pavement, green roofs, rain gardens and bioretention areas, bioswales, rainwater harvesting, and downspout routing, in addition to the required urban tree canopy preservation, maintenance, and replacement requirements included in Millwood's Urban Forestry Management Plan.

(Ord. No. 527, § 1, 6-14-2022)