



*Town of Milton*

115 Federal Street, Milton, Delaware 19968

[www.milton.delaware.gov](http://www.milton.delaware.gov)

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**ORDINANCE NO. 2022-009**

**AN ORDINANCE TO AMEND SECTION 220-46D(3) OF THE TOWN CODE REGARDING FENCE ORIENTATION.**

**WHEREAS**, the Charter of the Town of Milton vests power in the Mayor and Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

**WHEREAS**, the Mayor and Town Council has the power to zone or district the Town and make provisions for particular zones or districts with regard to structures, building, and building material, and to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code; and

**WHEREAS**, the Town Council of the Town of Milton has previously found it necessary for the aforementioned purposes to enact a zoning ordinance, codified as Chapter 220 of the Town Code; and

**WHEREAS**, pursuant to Chapter 220, the Town Council of the Town of Milton may, from time to time, on its own motion or on petition or upon recommendation by the Planning and Zoning Commission, amend, supplement, or change the boundaries of the districts or the zoning regulations after public notice and hearing; and

**WHEREAS**, the Town of Milton Planning and Zoning Commission held a duly noticed hearing on July 19, 2022 and voted 6-0 in the Advisory Report received by Town Council; and

**WHEREAS**, The Town Council held a public hearing on September 12, 2022, as scheduled by prior resolution, with proper notice by publication as required by Town Code Section 220-101A; and

**NOW THEREFORE, BE IT ENACTED AND ORDAINED**, by the Town Council of the Town of Milton, a majority thereof concurring, that the following revisions hereby be incorporated into Chapter 220 of the Town Code, entitled "Zoning," in Article VII, entitled "Development Guidelines":

Section 1. Amend § 220-46D(3) with deletions shown by strike-through and additions shown by underline as follows:

§ 220-46. Fences and walls.

Fences and walls are permitted as follows:

D. Fence and wall regulations.

(1) In all districts except the Limited Light Industrial District, Light Industrial District and Marine Resources District, a maximum height of 3 1/2 feet above street pavement shall be allowed for fences and/or walls located in a front yard at a street intersection. Fences and walls shall be constructed of materials that shall not hinder clear vision in conformance with Subsection B of this section. Fences in side and rear yards shall not exceed eight feet in height above grade. The front yard is the distance from the front of the property to the required building line.

(2) In the Limited Light Industrial District, Light Industrial District and Marine Resource District, there shall be no restrictions, except that any fence or wall shall not exceed eight feet in height and that fences and walls located in a front yard at a street intersection shall be constructed of materials that shall not hinder clear vision in conformance with Subsection B of this section.

(3) Fences with only one finished or decorative side, such as a wooden privacy fence.

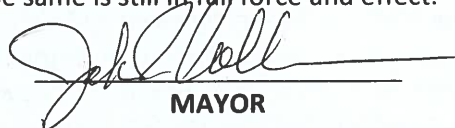
(a) The finished or decorative side of a fence shall face toward the neighboring property; ; provided, however, that, if the neighboring property has a fence installed along the same lot line, upon a review by the Project Coordinator, the finished or decorative side may face inward.

(b) Replacement of a fence that has the only finished or decorative side facing inward shall require a review by the Project Coordinator, and if a neighboring fence along the same lot line does not exist, the finished or decorative side shall face the neighboring property.

Section 2. The new Section 220-46D(3)(a) under this ordinance shall not apply to fences legally existing as of its effective date. The new Section 220-46D(3)(b) shall apply in all instances, including replacement of a fence that is legally nonconforming as of this ordinance's effective date.

Section 3. This ordinance shall take effect on September 15, 2022.

I, **JOHN R. COLLIER** Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 12<sup>th</sup> day of September, 2022 following a duly noticed public hearing, at which a quorum was present and voting throughout and that the same is still in full force and effect.

  
**MAYOR**

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SYNOPSIS

This ordinance amends the Town Code's zoning ordinance relating to orientation of fences with only one finished or decorative side. Enactment of this Ordinance does not impact pre-existing fencing that remains intact. However, if a pre-existing legally nonconforming fence is to be replaced, it must comply with the orientation requirements.