

Chapter 19.95 FENCING, WALLS, AND RETAINING WALLS

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19.95.010 Purpose

The purpose of this chapter is to promote the use of high-quality materials in fences, screens, walls, and retaining walls, while providing for privacy and safety for individual properties, vehicles, and pedestrians through fence and wall design, height, and placement. For this Chapter the term, “fence”, “fences”, and “fencing”, includes walls, screens, and retaining walls, ~~which are defined as man-made, and a hedge or a living fence, which is also considered a barrier.~~

19.95.020 Applicability

The standards of this chapter apply to all new construction of fencing, and reconstruction of existing fencing. ~~Existing non-conforming fences are only subject to the provisions of this chapter if their location or height impacts the safety or clear view for pedestrians, bicyclists, and/or vehicles.~~ Such fences shall always be properly maintained in terms of structural integrity and finish surfaces.

The provisions of this ordinance may be superseded by specific regulations found in other chapters.

19.95.030 Definitions – See definitions in 19.04

- A.** Decorative Wall. An architecturally designed wall that may be precast, integrally colored, or textured. A decorative wall shall not retain more than six (6) inches of soil on one side or the other.
- B.** Fence. A fence is a structure that encloses or screens an area, typically outdoors, and is usually constructed from posts that are connected by boards, wire, rails, or netting. A fence differs from a wall in not having a continuous foundation along its entire length. A fence shall not retain more than six (6) inches of soil on one side or the other.
- C.** Finished grade means the average finished grade (ground level) of the property nearest the fence.
- D.** Front yard. The portion of residential lot that extends from the designated front of the residence to the street.
- ~~**E.** Hedge. A hedge is a living fence made of closely planted bushes, which, as they grow and get trimmed and shaped, form a wall of vegetation.~~

- F. Open-style fencing. A fence constructed with openings of fifty (50) percent or more in order to more easily see through the fence.
- G. Parkstrip. A narrow strip of land between the sidewalk and the street often used as a right of way for public utilities and traditionally planted with street trees and turf.
- H. Retaining wall. A retaining wall is a relatively rigid wall used for laterally supporting the soil mass so that the soil can be retained at different levels on each of the two sides. A retaining wall is a structure designed to restrain soil to a slope that would not naturally be sustained (typically a steep, near vertical, or vertical slope). Retaining walls include any wall or other similar system, including stacked blocks/rocks/boulders, intended to resist the lateral displacement of earth or other materials.
- I. Recreational uses. Tennis, sports, basketball, or volleyball courts, and other similar private outdoor recreation uses enclosed with fencing.
- J. Scrap material. Recyclable materials left over from product manufacturing and consumption, such as parts of vehicles, building supplies, and surplus materials.
- K. Sound wall. A wall installed parallel to a state highway with the intent of minimizing the traffic noise for nearby residential dwelling units.

19.95.040 General Requirements

- A. **Permit Requirements.** A building permit is required for any fence over seven (7) feet in height, or as required by the currently adopted version of the International Building Code or International Residential Code. A building permit is required for all retaining walls four (4) feet in height or greater (measured from the bottom of the foundation or footing to the top of the wall) and must be designed by a licensed professional engineer in the State of Utah.
- B. **Visual Obstructions.**
 1. **Corner Lot Visual Obstructions.** No view-obstructing fence (a fence that does not allow for clear visual access through its construction materials) or wall that exceeds thirty-six (36) inches in height shall be placed in the clear view area as set forth in sections 14.12.040 and 19.76.160. An open-style fence may be a maximum of four (4) feet in height and shall be constructed with horizontal rails at least four (4) inches apart supported by vertical posts at least six (6) feet apart where at least fifty (50) percent of the fence, or at least the upper twelve (12) inches, shall be open-style fencing. The bottom three (3) feet may be solid fencing.
 2. **Driveway or Lane Visual Obstructions.** No view-obstructing fence in excess of thirty-six (36) inches in height shall be placed at any driveway, parkstrip, or automobile accessway within a specified triangular area. The clear-view area for the intersection of the center line of the driveway and a street shall be determined by first establishing the point of intersection of the driveway edge-center line and the street edge of pavement or, if there is an existing curb, back of curb, then measuring ten twenty (1020) feet along the edge of pavement or curb away from the driveway, and ten (10) feet along the edge from the center line of the driveway in toward the property. A line is then drawn from the termini of the two lines, forming a triangle. Additional requirements for visibility at residential driveways are found in MKC section 19.76.165. This is accomplished on both sides of the driveway. Within the triangles and the area between them, the following shall apply:

- ~~a.—An open-style fence may be a maximum of four (4) feet in height constructed with horizontal rails at least four (4) inches apart supported by vertical posts at least six (6) feet apart. At least fifty (50) percent of the fence, or at least the upper twelve (12) inches, shall be open-style fencing. The bottom three (3) feet may be solid fencing.~~
- ~~b.—Any wall or other type of solid fence or sight obscuring growth shall be a maximum of three (3) feet in height.~~
- ~~c.—Tree trunks may be located within this clear view triangle; however, for trees that are taller than 16 feet, tree canopies within the clear view area shall be trimmed to a minimum of eight (8) feet above the sidewalk and fourteen and one half (14.5) feet above the street as set forth in section 14.12.050.~~
- ~~d.—Tree canopies or other growth shall not block street signs or signals in view from the approaching street within one hundred (100) feet.~~
- ~~e.—Sight obscuring growth (hedge, etc.) shall be a maximum of three (3) feet in height in the parkstrip.~~
- ~~f.—The driveway clearview fencing provisions may not be required on corner and double frontage lots for a secondary drive access that is gated, locked, or that accesses the rear yard, if it is determined by the Planning Director that the drive access is not a primary access.~~

C. Fence Maintenance. All fencing shall be continually maintained in good repair, structurally sound, and safe condition, including appropriate and regular maintenance of the fence surfaces, by the property owners abutting the fence. Repairs and patching shall consist of similar fencing materials and shall blend with the fence. Graffiti shall be removed within 10 days after receiving a notice from a city code inspector.

D. Fence Height Measurement.

1. Fence height shall be measured from the finished grade to the highest point of the fence.
2. Berms, or other means to raise the elevation of the ground upon which a fence is proposed to be located, shall be included in the measurement of fence height.
3. When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from the height of the higher property grade within five (5) feet of the property line but shall not exceed twelve (12) feet in total height as measured from the lower property grade.
4. Use of retaining walls (for front yard retaining walls – see note 5 below) is encouraged to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation.
 - a) If a single retaining wall is used, one (1) vertical retaining wall up to eight (8) feet in height is permitted to reduce excavation and embankment.
 - b) Terracing is limited to two (2) walls with a maximum vertical height of six (6) feet each. The width of a terrace shall be a minimum of a one to one (1:1) ratio with the height of the wall. Terraces are measured from the back of the lower wall to the face

of the upper wall. Terraces created between retaining walls shall be permanently landscaped or revegetated as required by this Chapter.

- c) Front yard retaining walls shall be no more than four (4) feet in height and shall include planting terraces of at least four (4) feet in width.
- d) Retaining walls are considered a part of the fence height. No fences shall be installed on the top of a front yard retaining wall or within four (4) feet parallel to the top of a retaining wall.
- e) Residential properties that are not in the Foothills and Canyons Overlay Zone and that have slopes that are greater than 30 percent are eligible for an exemption to the above requirements, subject to a conditional use permit that follows the process and meets the standards of approval established in MKC 19.84, and subject to the following additional standards:
 - 1. No wall may be greater than sixteen (16) feet in height, as measured from finished grade.
 - 2. Walls may be terraced. Terraces must be at least three feet in depth.
 - 3. Walls visible from rights-of-way must include landscaping, including at least one tree planted at a minimum of 2" caliper, spaced every 30 lineal feet along the retaining wall.

E. Clearance. No fence, wall, hedge, or other structure shall be installed or maintained within thirty-six (36) inches of any fire hydrant and no closer than 12 inches to any utility (e.g., streetlights) or utility cabinet.

19.95.050 Fencing for Single-Family and Two-Family Dwellings and Agricultural Properties

A. Applicability. This section shall apply to any fence serving a single-family or two-family dwelling or a property containing an agricultural use, with the exception of lots or parcels in the Foothills and Canyons Overlay Zone (FCOZ), or perimeter fencing as required by the City's Planned Unit Development Standards. Fencing in the FCOZ is regulated under MKC 19.72.100 and perimeter fencing for PUD's is regulated under MKC 19.78.030.H.

B. Height.

- 1. **Front and Corner Side Yards on Local Roads.** For properties with front and corner side yards on local roads, as defined by the Roadway Classification Map in the Millcreek Transportation Master Plan, chainlink fencing or open-style fencing within ten (10) feet of the front yard property line (property line which is parallel to the street which is not considered a corner side yard), shall be no more than four (4) feet in height. Any wall or other type of sight obscuring fence or vegetation shall be a maximum of three (3) feet in height. All other fencing installed within the minimum front or corner side yard setbacks may not exceed six (6) feet in height. Also, refer to section 19.95.040 (B).
- 2. **Front and Corner Side Yards on All Other Roads:** For properties with front and corner side yards on Collector B, Minor Collector, Major Collector, Minor Arterial, or other Principal Arterial roads as defined by the Roadway Classification Map in the Millcreek Transportation Master Plan, fencing may not exceed six (6) feet in height, subject to the

driveway or lane visual obstruction standards found in MKC Section 19.95.040.

3. **Interior Side and Rear Yards.** Fencing in interior side or rear yards may not exceed eight (8) feet in height, subject to the visual obstruction requirements established below.
- C. Allowed Materials.** Fences shall be made of high-quality, durable materials that require minimal maintenance. The following fencing materials shall be allowed for properties containing single-family and two-family dwellings, except as otherwise provided below or by a more restrictive provision in this chapter:
1. Brick, block, or stone;
 2. Architecturally designed pre-cast concrete, decorative precast concrete or integrally colored and textured block, brick, stone, or other masonry materials;
 3. Solid or private heavy gauge vinyl, polyethylene, or similar materials;
 4. Composite materials, wood, cement, stucco, architectural or decorative metal panels with wood or contrasting posts;
 5. Visually permeable fencing, such as chainlink, mesh, picket, or split rail fences constructed of metal, vinyl, wood, or composite;
 6. Chainlink fencing in interior side or rear yards that may contain slats; or
 7. Hedges or vines on fences and walls where visual obstruction requirements do not apply, see MKC 19.95.040 B.
- D. Prohibited Materials.** The following fencing materials shall be prohibited on properties containing single-family or two family-dwellings or on properties containing an agricultural use:
1. Materials not typically used or designated/manufactured for fencing such as, but not limited to, used metal roofing panels, pallets, tarps, chipboard, or plywood;
 2. Scrap material, such as scrap lumber, metal or glass;
 3. Security wire, such as barbed wire, concertina wire, or razor wire; or
 4. Electrified fencing, except for legally established agricultural uses.

19.95.060 Fencing for Multi-family, Commercial, Industrial, and Institutional Development

- A. Applicability.** This section shall apply to any fence serving multi-family, commercial, industrial, or institutional development, with the exception of specific requirements found in the MD (19.55), M (19.66), or C (19.60) zones, or in lots or parcels in the Foothills and Canyons Overlay Zone (FCOZ), or perimeter fencing as required by the City's Planned Unit Development (PUD) Standards. Fencing in the FCOZ is regulated under MKC 19.72.100 and perimeter fencing for PUD's is regulated under MKC 19.78.030.H.
- B. Prohibited Locations.** Opaque fencing or open-style fencing taller than 6 feet in height for multi-family, commercial, industrial, and institutional development is ~~not allowed~~ prohibited in any front yard area, except as provided for in the Manufacturing Zone.

C. **Height.** Fencing may not exceed eight feet in height, except when the section includes terracing as per 19.95.040 (D).

D. **Allowed Materials as per section 19.95.050 (C)**

E. **Prohibited Materials as per section 19.95.050 (D).**

19.95.070 Fencing for Private Recreational Uses.

Open-style fences for uses such as tennis court enclosures, sport courts, hot tubs, swimming pools (includes a self-closing locking gate), and ball diamond backstops, may be erected to a height greater than eight feet, but shall not exceed a height of fourteen (14) feet and shall be located at least 10 feet from any property line.

19.95.080 Fencing Between Incompatible Uses and Zones

A. **Applicability.** Whenever a lot is developed with a use that is different than a use located on an abutting lot or parcel, the new development shall include installation of a fence or wall along the property line between the different uses as provided in this section, or as provided in the PUD standards (19.78), or the RM (19.44), MD (19.55), M (19.66), or C (19.60) zones.

B. **Fencing between Residential and Commercial Uses.** A minimum six (6) feet tall decorative precast or integrally colored and textured block, brick, stone, or other masonry fence and/or wall shall be installed between residential uses and commercial uses, where potential detrimental effects are anticipated, as determined by the Planning Director or designee.

C. **Fencing Between Commercial or Office, and Agricultural or Residential Zones.** A minimum six (6) feet tall decorative precast or integrally colored and textured block, brick, stone, or other masonry wall is required between commercial or office zones and agricultural or residential zones, as determined by the Planning Director or designee.

D. **Landscape Buffering for Waterways, Trails, Parks, and Open Space may be substituted from fencing.** Intensive landscaping techniques may be used to buffer waterways, trails, parks, open spaces or other uses. Persons wishing to substitute landscape buffering for fencing requirements shall provide plans to the Planning Director for approval.

E. **Noise Walls for Properties Abutting the I-15 and I-215 Corridors.** Any development abutting the I-215 Corridor shall include construction of a noise wall along the corridor right-of-way line if the Utah Department of Transportation determines such wall is necessary pursuant to an environmental study. Noise walls are exempt from the height and location requirements of this Chapter.

19.95.090 Wildlife Protection

Applicability and Requirement. For all properties East of I-215 and any property in the FCOZ zone, the top of fencing shall not have any pickets or sharp points that could impale wildlife.

19.95.100 Retaining Walls

1. A building permit is required for all retaining walls with a height greater than four (4) feet (measured from the bottom of the foundation, footing, or wall system, to the top of the wall). The submittals for a building permit shall include drawings stamped and signed by a professional engineer licensed by the State of Utah, details of the wall design, and a site plan depicting existing and proposed elevations. The design engineer shall inspect the construction of the wall and certify in writing that the wall was built per the approved design, and shall submit that certification to the City within fourteen (14) days of the completion of the retaining wall.
2. Height and terracing shall conform to the requirements of section 19.95.40.D.
3. Retaining walls are not considered double fences.
4. Retaining walls are subject to all requirements of this chapter and any other applicable requirements including setbacks.

19.95.110 Fencing within a Public Right-of-Way

No fence approved under this chapter shall be erected to extend beyond a private property line and into a public right-of-way without the issuance of an encroachment agreement between the City and the property owner, issued at the sole discretion of City, after receiving a recommendation from the Planning Director and City Engineer, subject to the following criteria:

1. The encroachment agreement shall stipulate, at a minimum, that the city shall retain the right to remove any fence located within a public right-of-way for any purpose it deems necessary, and that removal and replacement shall be at the sole expense of the property owner.
2. Maintenance of the area between the sidewalk or edge of pavement and the property line shall be the sole responsibility of the property owner.
3. A fence in a right-of way shall be located no closer than one foot of an existing sidewalk or a future sidewalk or within a three-foot radius of a fire hydrant.
4. The installation of the fencing is not detrimental to the public safety or welfare of property owners, pedestrians, or operators of vehicles.

MILLCREEK, UTAH
ORDINANCE NO.

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 14 AND 19 OF THE
MILLCREEK CODE OF ORDINANCES WITH RESPECT TO CLEAR-VIEW
REQUIRMENTS**

WHEREAS, the Millcreek Council (“Council”) met in regular session on _____, 2020, to consider among other things, approving an ordinance amending various sections of title 14 and 19 of the Millcreek code of ordinances with respect to clear-view requirements; and

WHEREAS, title 19 is a land use/zoning ordinance and requires planning commission review; and

WHEREAS, Utah Code Ann. § 10-9a-502 provides planning commission shall provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4) and hold a public hearing on the proposed land use ordinances; and

WHEREAS, on _____, the required notice was published; and

WHEREAS, on _____, the proposed amendment was submitted to the planning commission for its recommendation; and

WHEREAS, on _____, the planning commission held the required public hearing with respect to amending various sections of Title 19 of the Millcreek Code of Ordinances; and

WHEREAS, at the _____, planning commission meeting the Millcreek Planning Commission recommended amending various sections of Title 19 of the Millcreek Code of Ordinances with respect to clear view requirements and

WHEREAS, the Millcreek Code of Ordinances, provides among other things, that before finally adopting any such rezone, the Council shall consider the application during a public meeting which has been properly noticed in compliance with the provisions of Title 52, Chapter 4, of the Open and Public Meetings Act; and

WHEREAS, on _____, the Council caused the required notice to be given; and

WHEREAS, on _____, the Council considered amending various sections of Title 5 and Title 19 of the Millcreek Code of Ordinances; and

NOW THEREFORE, BE IT ORDAINED by the Council that that Title 14 and Title 19 Zoning be amended as follows (designated by interlineating the words to be deleted and underlining the words to be added).

Chapter 14.12 - STANDARDS FOR ROADWAY DEVELOPMENT

Sections:

14.12.010 - Definitions.

"Clearview" means that portion of the corners at intersections where obstructions are limited to ~~three~~ two feet in height in order to preserve a safe sight distance for motorists entering intersections.

14.12.040 - Clearview of intersecting streets.

- A. Corner sight distance for local ~~roads streets with no traffic management devise shall be a minimum of thirty (30) 40~~ feet when measured from the point of intersection along the property lines. In instances where property lines are not readily visible or established, corner sight distances shall be a minimum of fifty (50) feet measured from the point of intersection along the edge of pavement. ~~feet as defined in the AASHTO guidelines shall be a minimum of three hundred feet.~~ All other roads, collectors and larger locations shall be provided with sight distance in accordance with AASHTO guidelines.
- B. No constructed or planted obstruction to view, in excess of ~~three~~ two feet in height above the level of the adjacent street pavement (measured at the edge of the pavement), shall be allowed within the clear-view of intersecting streets. Exception to this are signs that conform to Section 19.82.110; a reasonable number of trees pruned to ~~eight (8) feet~~ ten above a sidewalk and fourteen and one half (14.5) feet above the street surface feet; and pumps at gasoline service stations. In the event the provisions of this subsection conflict with Section 19.76.160, the most restrictive shall apply.
- C. Landscaping material which infringes the clear-view of intersecting streets and creates a safety hazard, after due notice to property owner has been given, may be trimmed by the operation division.
- D. An open-style fence shall be a maximum of four (4) feet in height, the bottom three (3) feet may be solid fencing, constructed with horizontal rails at least four (4) inches apart supported by vertical posts at least six (6) feet apart. At least fifty (50) percent of the fence, or at least the upper twelve (12) inches, shall be open.

19.44.050 DEVELOPMENT REQUIREMENTS

The following are required for all developments:

- E. Traffic Generation and Parking. All parking standards detailed below are considered minimums. See MKC 19.80 Off-Street Parking for general requirements, subject to the additional considerations below:
7. Front, Side Yard and Rear Yard Fencing. Fencing of a residential development shall be provided except in the case of compatible adjacent uses and in front yards and to achieve clear-view standards on side lot lines. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete. Fencing with materials using composite products, wrought iron, metal intended to look like wrought iron, wood, or vinyl may be allowed with a minimum two-~~feet~~ wide, six-~~feet~~ tall brick or stone pillars spaced every ten feet on center. Access between adjacent

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compatible uses may be required and may eliminate the need for the required fence in that location.

8. Interior Street and Parking Lot Lighting. Street and pedestrian lighting for streets on the interior of the development is required. All lighting fixtures shall be directed downward with mechanisms to prevent dark sky illumination. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian safety. Minimum Average Foot-Candles for interior streets and parking lots shall be 0.3, the fixture height shall not exceed 25 feet, and no poles shall be located within 20' of any property line.
9. Signage. Only monument signs with a maximum size of 50 square feet, and 5 feet in height are allowed. Signs shall be set back a minimum of 5' from the public ROW and not restrict the **clear-view** of an intersection or from a driveway. No temporary signs are allowed other than for sale or rent signs with a maximum of 6 square feet in area per side. Only two permanent signs are allowed per 300 feet of frontage. Sign lighting shall be external with the lighting oriented downward only. The size, location, design and nature of signs, shall be consistent with the characteristics of the building to which it is oriented. The requirements for signs found in MKC 19.82 for the RM zone are superseded by the above provisions. Notwithstanding the foregoing, clear, easily read from the street, address signs, for the project are required and may be mounted on buildings.

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19.76.160 Intersecting Streets And Clear Visibility

In all zones which require a front yard, no obstruction to view in excess of ~~three (3)~~**two** feet in height shall be placed on any corner lot within a triangular area **formed by following the property lines and a line connecting them at points thirty (30) feet from the point of intersection. In instances where property lines are not readily visible or established, the triangular area shall be formed by following the edge of pavement and a line connecting them at points fifty (50) feet from the point of intersection. formed by the street property lines and a line connecting them at points forty feet from the intersection of the street lines. An exception shall be made for** a reasonable number of trees pruned **to a height of eight (8) feet above the surface of the sidewalk and fourteen and one half (14.5) feet above the surface of the road**~~high enough~~ to permit unobstructed vision to automobile drivers, and pumps at gasoline service stations.

19.82.110 Visibility At Intersections

- A. There shall be a minimum clearance of ten feet between the ground and any part of a projecting sign or ground sign, as measured from the grade of the intersecting streets and located within the clear-view of an intersection, which is a triangular area formed by the street property lines and a line connecting them at points forty feet from the intersection of the street lines. Any portion of a sign structure within the clear-view of an intersection and nearer the ground than ten feet may not exceed ten inches in width, thickness or diameter. **No portion of a sign structure shall be permitted to project into the right of way.**
- B. A service sign located within the clear-view of an intersection shall not exceed **three (3)**~~two~~ feet in height.

C. An **open-style fence** shall be a maximum of four (4) feet in height, the bottom three (3) feet may be solid fencing, constructed with horizontal rails at least four (4) inches apart supported by vertical posts at least six (6) feet apart. At least fifty (50) percent of the fence, or at least the upper twelve (12) inches, shall be open.

19.76.165 Visibility at Residential Driveways

~~A. 1.~~ The clear-view area for the intersection of a driveway and a street shall be determined by first establishing the point of intersection of the ~~driveway edge~~ center line of the driveway and the street right-of-way line, then measuring ~~ten (10) to twenty (20) to ten (10)~~ feet along the property line away from the driveway, and ten (10) ~~to ten (10)~~ feet along the edge of the driveway in toward the property. A line is then drawn from the termini of the two lines, forming a triangle. This is accomplished on both sides of the driveway. Within the triangles and the area between them, the following shall apply:

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A. ~~1.~~ An **open-style fence** shall be a maximum of four (4) feet in height constructed with horizontal rails at least four (4) inches apart supported by vertical posts at least six (6) feet apart. At least fifty (50) percent of the fence, or at least the upper twelve (12) inches, shall be open-style fencing. The bottom three (3) feet may be solid fencing.

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B. ~~2.~~ Any wall or other type of solid fence or sight obscuring growth shall be a maximum of three (3) feet in height.

C. ~~3.~~ Tree trunks may be located within this clear-view triangle; however, tree canopies may extend into the clear-view area if they are trimmed at least eight (8) feet above the sidewalk and fourteen and one half (14.5) feet above the street as set forth in section 14.12.050.

D. ~~4.~~ Tree canopies or other growth shall not block signs or signals in view from the approaching street within one hundred (100) feet.

E. ~~5.~~ Sight obscuring growth (hedge, etc.) shall be a maximum of three (3) feet in height in the parkstrip.

F. ~~6.~~ The driveway clearview fencing provisions may not be required on corner and double frontage lots for a secondary drive access that is gated, locked, and that accesses the rear yard, if it is determined by the Planning Director that the drive access is not a primary access.

This Ordinance assigned no. 2020-__, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's recorder.

PASSED AND APPROVED this __ day of _____ 2020.

MILLCREEK COUNCIL

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Greiner, CMC City Recorder



