



## CITY OF MERCER ISLAND, DEVELOPMENT SERVICES GROUP

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WWW.MERCERGOV.ORG

# APPLICATION FOR FENCE HEIGHT DEVIATION

A **Fence Height Deviation** is the means by which property owners may construct a fence higher than 42 inches, up to 72 inches, within 20 feet of a public or private street for “R” residentially zoned property. The decision will be made following mailing of a public notice to residents within 300’ of the property and posting of the site. The applicants are responsible for posting the site with a City furnished sign in a location that is visible to the public right of way.

A Variance application and approval is required for a fence to exceed 72 inches in height.

**PRE-APPLICATION:** Applicants are encouraged to participate in informal meetings with City staff. Call Development Services Staff to schedule a pre-application meeting. Meetings with the staff provide an opportunity to discuss the proposal in concept terms, identify the applicable City requirements and the project review process. Meetings or correspondence with the neighborhood serve the purpose of informing the neighborhood of the project proposal prior to the formal notice provided by the City.

**APPLICATION:** All applications for projects to the City shall be submitted on forms provided by the Development Services Group. An application shall contain all information required by the applicable development regulations, and shall include the following general information.

1. A verified statement by the applicant that the subject property is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the property.
2. A legal description of the site and parcel number.
3. Plot plan, drawn to scale, showing the subject parcel’s exact dimensions and location of all existing structures, driveways, landscaping, adjoining streets and all easements as well as the location of the proposed fence.
4. Elevations, drawn to scale, showing the size and construction of the proposed fence in relation to existing and finished grade(s).

**DETERMINATION OF COMPLETENESS:** An application is not accepted by the City for submission unless the application has been determined to be complete. If upon review, the City determines that the application information provided is incomplete, within twenty-eight (28) days after receiving a permit application the City shall mail or personally provide a written determination to the applicant stating the inadequacies of the application. If the applicant fails to provide the required information within 90 days of the notification of incompleteness, the application shall lapse. The applicant may request a refund of the application fee minus the City's cost of determining the completeness of the application.

### **Filing Requirements**

- Filing Fee: **see Development Application for fees**
- \$ 200.00** fee for sign posting, refundable upon return of sign
- Application Form
- Elevations
- Site survey
- Site plan (1 copy, plus (1) 8-1/2" X 11" reduction of all plans)
- Vicinity map
- Photographs of existing conditions
- Criteria Sheet
- Legal Description and tax parcel number
- Applicant's statement (See #1 on the previous page for details)

**FENCES AND RETAINING WALLS/ROCKERIES**  
**MERCER ISLAND CITY CODE, SECTION 19.02.050**

- A. The height of a fence is measured from the top of the fence, including posts, to the ground level directly below the section of the fence being measured.
- B. The height of a retaining wall or rockery is measured from the top of the retaining wall or rockery to the existing grade directly below the retaining wall or rockery.
- C. No fence shall be located in the right-of-way of any street.
- D. Retaining walls and rockeries may be allowed in street rights-of-way subject to the approval of the city engineer and the granting of an encroachment agreement as set out in MICC 19.06.060.
- E. Where a retaining wall protects a cut below the natural grade, and is located on the line separating lots or parcels, such retaining wall may be topped by a fence or wall of the same height that would otherwise be permitted at the location if no cut and retaining wall existed.
- F. Where a retaining wall contains a fill, the height of the retaining wall shall be considered as subtracting from the normally permitted height of a fence constructed on the wall or on the fill within 20 feet of the wall; provided, that in any event, a protective fence not more than 42 inches in height may be erected in that area. Any portion of such fence more than 72 inches above the foot of the wall shall be of an open work design with at least 50 percent of its total surface area consisting of evenly distributed open spaces.
- G. Fences are allowed to a maximum height of 72 inches within the required yards; except, fences are limited to a maximum height of 42 inches within that portion of any required yard which lies within 20 feet of the right-of-way of any street or other motor vehicle easement appurtenant to the lot upon which the fence is located.
- H. Fence Height Deviations. Deviations from the 42-inch height limitation set out in subsection G of this section shall be reviewed in the manner set out below:
  - 1. For non-regulated improvements, deviations shall be reviewed by the code official under the following procedure:
    - a. The applicant shall submit to the code official two copies of plot plans and elevations, drawn to scale, showing size and construction of the proposed fence, the location of all existing structures, streets, driveways, and landscaping.
    - b. The code official shall review the submitted plans with the city engineer and shall base the decision to approve or disapprove the requested deviation on factors of traffic visibility and other public and private safety considerations, lot shape, location and topography, and the nature, location and extent of adjoining public and private structures.
  - 2. For regulated improvements<sup>1</sup>, deviations shall be reviewed by the design commission under the procedures and criteria set forth in MICC 19.15.040.
- I. Electric fences and barbed wire fences are not allowed.

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<sup>1</sup> MICC 19.15.020 defines regulated improvements as: Any development of any property within the city, except: 1. Property owned or controlled by the city; or 2. Single-family dwellings and the buildings, structures and uses accessory thereto.

**CRITERIA FOR APPROVAL OF A FENCE HEIGHT DEVIATION**  
**MICC Section 19.15.020**

Your answers to the following questions will be used in the decision on your application. Please respond fully to all of the following questions (attach extra sheets, if necessary). It is the applicant's responsibility to demonstrate to the Code Official that all four of the deviation criteria are satisfied for the requested fence height.

a. No use deviation shall be allowed;

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b. The granting of the deviation will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;

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c. The granting of the deviation will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property; and

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d. The deviation is consistent with the policies and provisions of the comprehensive plan and the development code. *(The City's development code is available for review at the Development Services Group's front counter or on the City's home page. The Mercer Island Comprehensive Plan is available for review or purchase at the Development Services Group's front counter.)*

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*Application for a deviation involves substantial time, expense, and risk for a property owner. Application does not guarantee approval. Request must meet difficult criteria, and applicants are proceeding "at their own risk".*

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Signature of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Site Address