

**City of Malden**  
**Massachusetts**

INSPECTIONAL SERVICES  
215 Pleasant Street, 3<sup>rd</sup> Floor  
Malden, Massachusetts 02148  
(781) 397-7000 ext. 2044

February 15, 2022

Malden City Council  
Malden City Hall  
215 Pleasant Street  
Malden, MA 02148

**Re: Amendments of Title 12.28.060, Code of City of Malden**  
**General Regulations, Obstructions**  
**City Council Paper #452/2021**

Dear Councilors:

On February 9, 2022, the Planning Board and City Council Ordinance Committee jointly held a public hearing regarding the above-referenced proposed amendments.

As a result of the public hearing, on February 9, 2022, a majority of the Planning Board, namely, all nine of those nine members present and voting, decided to recommend to the City Council **approval** of the amendments as submitted.

For your reference, enclosed please find the Planning Report & Recommendation dated February 9, 2022, with attachments, which was presented at the public hearing.

Finally, please be advised, that, if the City Council fails to act on the amendments within ninety (90) days of the date the public hearing closed, a new duly advertised public hearing must be held. Accordingly, **the final date for action is May 10, 2022.**

I am available to discuss and answer any questions regarding the Planning Board's recommendations. Please do not hesitate to contact me. Thank you.

Sincerely,

Michelle A. Romero  
City Planner

Enclosure

CC: Greg Lucey, City Clerk  
Kathryn Fallon, City Solicitor  
Mayor Gary Christenson

## PLANNING REPORT & RECOMMENDATION

**To:** Malden Planning Board  
**From:** Malden City Planner  
**Date:** February 9, 2022  
**Subject:** Zoning Amendment/CCP #452/2021, as amended  
General Regulations, Obstructions (§12.28.060)  
Title 12, Chapter 12, Code of City of Malden (MCC) (*all references herein*)

**PETITION:** This petition is made by the City Council (§12.32.050) and was filed by sponsor Councilor-at-Large Craig Spadafora. For full text of amendment see attached City Council Paper 452/2021, as amended by attached City Council Ordinance Committee report on December 21, 2021, and accompanying correspondence from Nelson Miller, Building Commissioner dated October 7, 2021).

### **PURPOSE and HISTORY of CURRENT ORDINANCE:**

This safety provision regulates structures, landscaping and parked vehicles located on property at the intersection of two streets, which may obstruct the views of traveling vehicles, pedestrians and cyclists.

The original provision specified the distance as thirty (30) feet, as ordained in 1977 with the City's adoption of M.G.L. Chapter 40A; and was amended to ten (10) feet, when the current provision was ordained in 1978.

### **SUMMARY of PROPOSED AMENDMENT:**

The current provision is ineffective to achieve its purpose because, if calculated as written, the area intended to be free of obstructions is typically not included, given measurements include sidewalks. (For illustrative reference, see PowerPoint presentation, "12.28.060 Obstructions rev." by Nelson Miller, Building Commissioner, attached).

As proposed, the amendment will update the existing provision as follows:

"At the intersection of two (2) or more streets or bike path, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ~~ten (10)~~ twenty-five (25) feet distant from said intersection measured along said street line. On rounded corners, said ~~ten (10)~~ twenty-five (25) distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding."

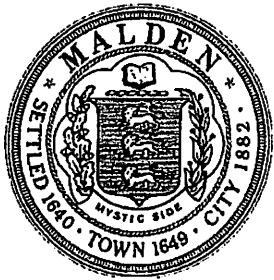
**APPLICATION and EXEMPTIONS:** The amended ordinance will apply to new structures and existing structures on existing lots, unless exempt per M.G.L. c. 40A, §6: as a preexisting nonconforming use or structure (per §12.28.010); the subject of a building or special permit issued before the first publication of notice of the public hearing (January 21, 2022); or land part of an approved and endorsed Approval Not Required or Definitive subdivision plan.

*Note 1: The effective date is the date of City Council's vote to ordain the amendment (§12.32.050.F).*

**STANDARD of REVIEW:** The Planning Board's review and recommendation of the proposed zoning changes should be directed by *substantive planning objectives, community need and general welfare.*

**PLANNING RECOMMENDATION:** (*Made prior to the public hearing*) That the Planning Board recommends to the City Council:

- 1) Approval of the amendment as submitted.



**CITY OF MALDEN**  
**Inspectional Services Department**

215 Pleasant Street  
Malden, MA 02148  
781.397.7000

Nelson L. Miller Jr. CBO, Building Commissioner

Malden City Council  
Mr. Neal Anderson, President  
215 Pleasant Street  
Malden, MA 02148

October 7, 2021

Re: Proposed ordinance change

President Anderson,

On behalf of Mayor Gary Christenson, I respectfully propose an amendment to Section 12.28.060 of the City of Malden Ordinances. *Section 12.28.060 – Obstructions* is an ordinance which addresses the heights and locations of fences and other obstructions which are on property located at the intersection of two streets. The ordinance is ineffective as currently constructed, which Mayor Christenson has been made aware of by my department through our efforts to resolve numerous complaints from residents. These proposed revisions and additions to our current ordinance will provide safer traveling conditions for vehicular, pedestrian, and bike traffic at the intersection of streets, driveways, and sidewalks.

I am including a brief power point presentation with the proposal. I would be happy to present this before the City Council and answer any questions that may arise.

Please do not hesitate to contact me with any questions or concerns.

Nelson L. Miller Jr., CBO  
Building Commissioner / Zoning Officer  
Director – Inspectional Services Department



**CITY OF MALDEN**  
**Inspectional Services Department**

215 Pleasant Street  
Malden, MA 02148  
781.397.7000

Nelson L. Miller Jr. CBO, Building Commissioner

**12.28.060 OBSTRUCTIONS**

*This is the ordinance as it currently reads, with proposed changes in red:*

At the intersection of two (2) or more streets, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ~~ten (10)~~ twenty five (25) feet distant from said intersection measured along said street line. On rounded corners, said ~~ten (10)~~ twenty five (25) foot distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding.

*This is entirely new language to be added to the current ordinance:*

At the intersection of a street and any driveway or access road, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the driveway or access road within six (6) feet distant from the lot line located at said intersection.

Paper 452-21 Information from Rules & Ordinance Committee Mtg. on 12/21/21

Amendments to Paper 452-21 that were passed.

1. Add bike path after (2) or more streets
2. Change 10 feet to 25 feet distance.
3. Strike the proposed new language in its entirety.

**12.28.060 OBSTRUCTIONS**

At the intersection of two (2) or more streets or bike path, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ~~ten (10)~~ twenty five (25) feet distant from said intersection measured along said street line. On rounded corners, said ~~ten (10)~~ twenty five (25) foot distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding.

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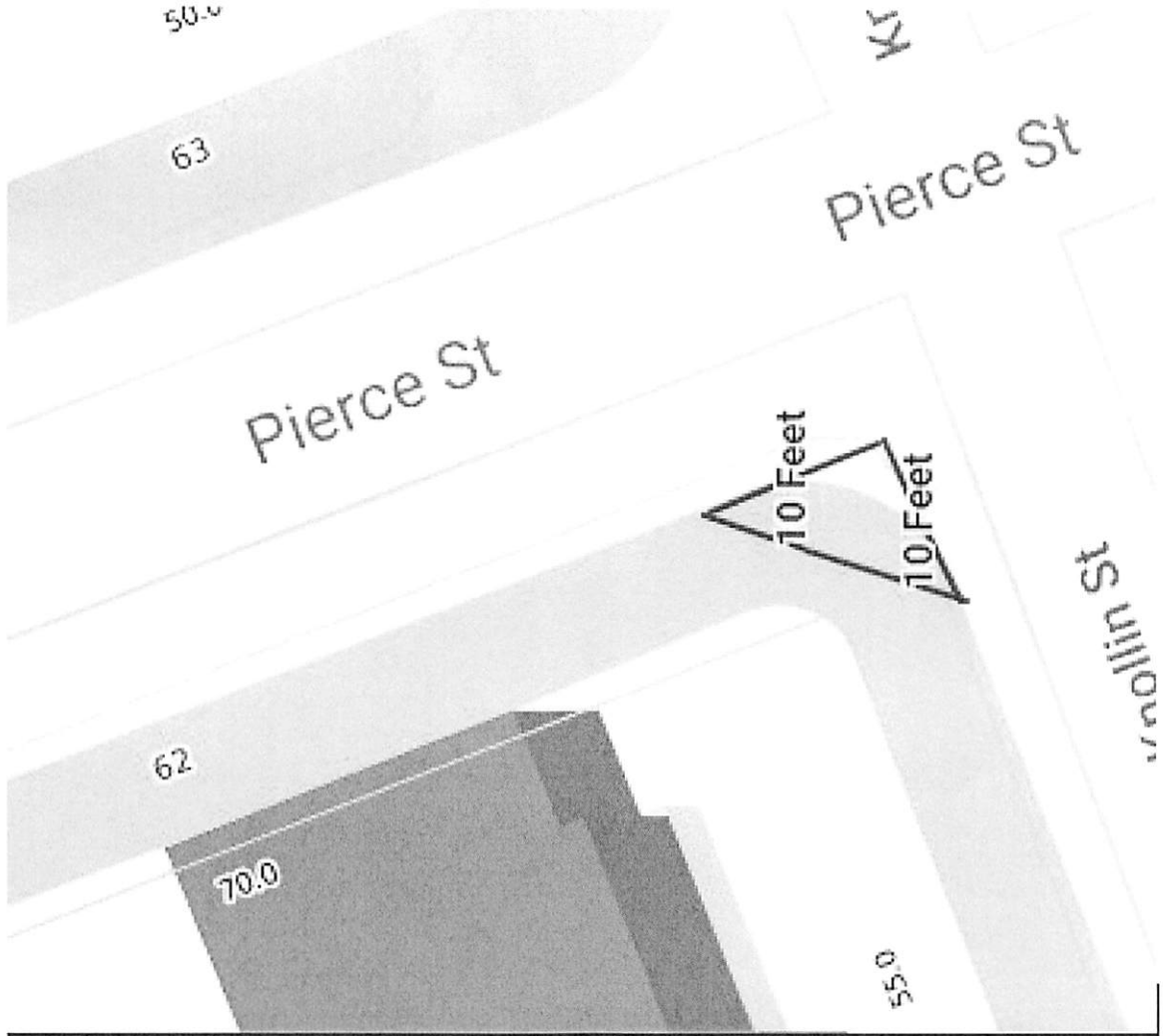
City of Malden  
Ordinance Section  
12.28.060  
OBSTRUCTIONS

Nelson Miller  
Building Commissioner  
Inspectional Services Department

# The current text of the ordinance:

## 12.28.060 OBSTRUCTIONS

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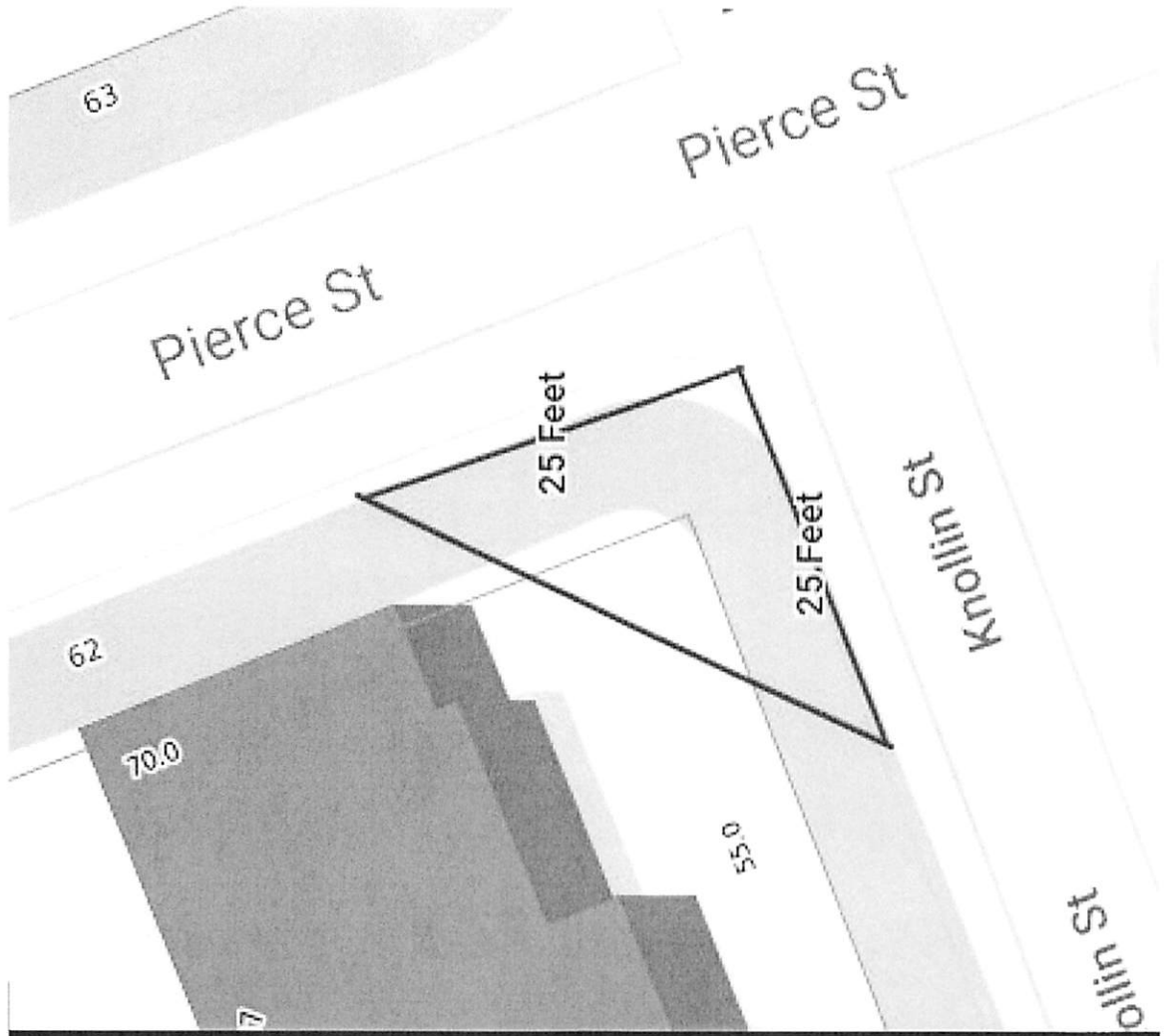


What does this  
mean?



## Proposed change:

At the intersection of two (2) or more streets, no fence, wall, sign or other structure shall be erected and no tree, shrub or other planting shall be planted or maintained, and no vehicle shall be parked which prevents an unobstructed view through the space between three (3) and eight (8) feet in height, above the plane of the established grades of the streets within the triangular area formed by the intersecting street lines and a straight line joining each street line ~~ten (10)~~ twenty five (25) feet distant from said intersection measured along said street line. On rounded corners, said ~~ten (10)~~ twenty five (25) foot distance shall be measured from the intersecting point resulting from the projection of the street lines immediately adjacent to the rounding.



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