

Section 20.9 Fences, Walls and Retaining Walls

A. Application and Permit Required: No person shall erect, construct or replace any fence, wall or retaining wall except in accordance with the provisions of this Section and only after the issuance of a zoning permit for the same. In the case of a fence, wall or retaining wall in association with the use of a lot for single-family or two-family dwelling purposes, application for such permit shall be according to Section 2.4(B). In the case of a fence, wall or retaining wall in association with a use subject to site plan approval according to Article 14, application for such permit shall be according to Article 14. In all cases, the application and required plot plan or site plan shall delineate the fence, wall or retaining wall type, location, length, height, materials, and construction details, and other information as may be required to adequately portray the intended fence, wall or retaining wall.

1. **Nonconforming Fence, Wall or Retaining Wall:** A fence, wall or retaining wall lawfully existing on or before the effective date of this Ordinance or amendment thereto, and not in conformance with the requirements of this Section, shall be subject to the nonconforming structure provisions of Section 6.4 of this Ordinance.

B. General Construction Features and Maintenance.

1. **Materials:** Fences, walls and retaining walls shall be constructed of materials designed and intended for such purposes and in good condition. In no case shall a fence, wall or retaining wall be constructed of rotting lumber, scrap metal, pallets, glare-producing materials, tires, trash or any materials that encourage habitation by pests or vermin. Fences shall be constructed with posts made of either iron pipe with one and five-eighths (15/8) inches outside diameter, or wood posts four (4") inches in diameter, or other material, with footings or post holes at least three (3') feet in depth and firmly set in concrete, sand, or other compacting material. The fencing material shall be firmly and securely fastened to the posts.
2. **Finished Side:** In the case where a proposed fence or wall is within twenty (20) feet of a dwelling on an abutting lot, the finished side of the fence or wall shall face the abutting lot.
3. **Barbed Wire, Spikes and Pointed Instruments:** Except for fences used for agriculture, no fence or wall shall include barbed wire, spikes, projecting nails, or pointed instruments of any kind or description, or include an electrical charge. This restriction on barbed wire and pointed instruments shall not apply to fences and walls surrounding or otherwise used within industrial facilities if such barbed wire or similar instruments do not extend over a lot line and project at an angle away from an adjacent sidewalk or public way.
4. **Double-Frontage Lots:** In the case of a double-frontage lot, the front yard height restrictions of this Section shall apply to both yards having such frontage unless provided otherwise.
5. **Setbacks:** Fences, walls and retaining walls shall not be subject to setback requirements except where otherwise required by this Section or the site plan approving body determines a setback is necessary to minimize negative impacts on adjacent property.
6. **Maintenance:** Fences, walls and retaining walls shall be maintained in good exterior and structural condition and reasonable repair at all times and shall not pose hazards to public safety.

C. Location Restrictions:

1. **Lakefront Lot:** In the case of a lakefront lot, no fence, wall or retaining wall shall be located in any portion of the lot between the lake and the nearest façade or façade corner of the principal building on such lot. This restriction shall not prohibit the erection of a fence between the lake and the principal building, between October 1 and May 1, intended to serve as an erosion control measure, provided such fence does not exceed a height of three (3) feet above the ground surface.
2. **Public Right-of-Way and Private Road Easements:** No fence, wall, retaining wall or other barrier shall be erected within or extended into a public road right-of-way or private road easement, except in conjunction with temporary construction activities for which a building permit has been granted by the Township. No fence, wall, retaining wall or other barrier shall be erected or extended within five (5) feet of the improved roadway or shoulder of a public or private road.

D. Height and Design Standards in Residential Districts: The following standards shall apply to fences, walls and retaining walls located in a Residential District. Where a fence or wall is located on a berm, the height of the berm shall be included in the measurement of the height of the fence, wall or retaining wall.

1. Front Yard Fences and Walls:
 - a. No fence or wall located in a front yard shall exceed four (4) feet in height above the ground below. If any portion of such fence or wall is located within twenty-five (25) feet of a public road right-of-way or private road easement, such portion shall be of unified open construction, so as to permit the free flow of air through a minimum of fifty percent (50%) of the fence.
 - b. No wire-weave fencing, commonly referred to as chain-link fencing, shall be located in a front yard of a Residential District.
2. Side and Rear Yard Fences and Walls: No fence or wall located in a side or rear yard shall exceed six (6) feet in height above the ground below, except as follows:
 - a. See Section 20.22 regarding clear vision zones.
 - b. In the case of a double-frontage lot, a fence or wall in the yard that functions most like a rear yard shall comply with the front yard restrictions in (1) above except that the fence or wall height shall be no greater than six (6) feet, measured from the ground below, where the fence or wall is setback a minimum distance of twenty-five (25) feet from the road right-of-way.
3. Retaining Walls:
 - a. No retaining wall shall exceed five (5) feet in height. This restriction shall not prohibit the retaining of ground for a height in excess of five (5) feet provided no one (1) wall shall exceed 5' in height and in the event multiple walls are used above one another, such as in a terraced manner, each wall shall be set back a minimum of five (5) feet from the nearest wall below.
 - b. If a retaining wall, earth buildup or other structure or condition is created within one hundred (100) feet of a dwelling and has on one or more sides a drop of more than thirty (30) inches, the designated approving body for the use shall have the discretion to require the installation and maintenance of a railing, fence or other restraint device to prevent children and others from falling, if such body determines that a restraint is reasonably necessary for safety. Any party aggrieved by such a determination by the Zoning Administrator in the case of a use subject to plot plan approval according to Section 2.4(B) may appeal that decision to the ZBA pursuant to the time limits and procedures specified in Article 16 of this Ordinance.
 - c. If the natural grade within twenty (20) feet of a building, whether existing or under construction, is built up and is partially or wholly retained or kept in place by a retaining wall, retention wall, landscaping timbers, or similar items, in order to allow access to a door, entry, or exit for the building, such buildup and retaining items shall be deemed a structure for purposes of setback requirements.
 - d. Retaining walls located between a lake and a dwelling shall have either incorporated landscaping to partially screen the view of the retaining wall from the lake or have a rock, brick or similar façade on the surface facing the lake.

E. Height and Design Standards in Non-Residential Districts: The following restrictions shall apply to fences, walls and retaining walls located in any District other than a Residential District. Where a fence or wall is located on a berm, the height of the berm shall be included in the measurement of a fence's height.

1. Clear Vision Zones: See Section 20.22 regarding additional restrictions in association with clear vision zones.
2. Front Yard Fences and Walls: No fence or wall located in a front yard shall exceed four (4) feet in height above the ground below except in the case of a clear vision fence, in which case the height shall not exceed eight (8) feet.
3. Side and Rear Yard Fences and Walls: No fence or wall in a side yard or rear yard shall exceed six (6) feet in height measured from the ground below.
4. Retaining Walls: The provisions of subsection (D)(4) shall apply to retaining walls in Non-Residential Districts.

F. Property Line Determinations: It shall be the obligation and sole responsibility of applicants seeking a permit under this Section to determine the exact location of property lines and ensure construction

activities are limited to the lot of the applicant. The Zoning Administrator may require the applicant to submit a certified survey prepared by a registered land surveyor and have the lot corners staked by the surveyor. The Township shall not be responsible for establishing or verifying lot line locations and the issuance of a permit shall not be construed as a determination that the staked corners are accurate and that the proposed fence or wall is properly located on the applicant's lot, or otherwise prejudice in any way the rights of another property owner.

G. Exceptions:

1. Public Welfare: The designated site plan approving body may permit and/or require fence or wall heights greater than otherwise provided in this Section upon finding that such a greater height shall have a substantial impact in more effectively protecting the public safety and/or welfare.
2. Construction Fences: This Section shall not apply to temporary construction fences in association with construction for which a building permit has been issued.