

Ch 310

**BOROUGH OF NEW PROVIDENCE  
ORDINANCE 2007-17**

**"AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 310 OF THE  
CODE OF THE BOROUGH OF NEW PROVIDENCE ENTITLED 'FENCES' "**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of New Providence, County of Union and State of New Jersey, as follows:

SECTION 1. Section §310-32 of Article V of the Code of the Borough of New Providence entitled "Supplementary Regulations" is amended as follows:

§ 310-32 Fences

A. Purpose:

The purpose of this subsection is to establish requirements governing the construction, erection or installation of any fence, wall, or wall-like structure, including shrubs, hedges, and the like located on or within any lot or parcel of land within the Borough of New Providence. The requirements set forth herein are designed to prevent the construction of such fences in such a manner as to constitute a nuisance, create a hazard for fire or rescue personnel, or restrict visibility through or across such lands at locations where such visibility is necessary for the safe operation of vehicles passing, entering or leaving any driveway, lot, or parcel of land located on a public thoroughfare; and to otherwise provide for the health, safety and welfare of the residents of the borough.

B. Definitions:

As used in this chapter, the following terms shall have the meanings indicated:

**FENCE** —Any type of freestanding wall or structural enclosure, other than a wall of a building, whether of wood, metal, wire, concrete or other material.

**HEDGE** —A group of bushes, shrubbery or other plant life so situated as to be similar in function and serve the same ends as a fence; also referred to as a "living fence."

**PERSON** —Any landowner, lessor, lessee, tenant or other person in possession of lands lying within the borough.

**RETAINING WALL** —A permanent artificial device constructed to change or preserve the finished grade of a given parcel of land, no portion of which is above finished grade on more than one side of the retaining wall.

C. Permits:

A zoning permit shall be obtained for all fences, prior to the construction, erection, or installation of any fence. In considering applications for the erection of a fence, the Zoning Official shall require a copy of a survey showing the proposed location of the fence with respect to the existing property lines.

D. Site Plan Reviews:

Fences, hedges, and retaining walls shall be permitted in all residential districts (zones) without the need for site plan review provided that the lot in question already has an existing principal structure. Fences in non-residential districts (zones) shall require a site plan review. Fences, walls or wall-like structures including retaining walls shall be considered as accessory to a principal permitted use and shall be permitted in accordance with the standards set forth below.

E. General Regulations for Fences and Walls:

1. No fence, wall or wall-like structure shall be constructed, erected or placed within a required sight triangle, nor within thirty (30) feet of the intersection point of the curblines of two (2) streets. These dimensions shall be measured to the center line of a fence, the outer face of a wall, or the extreme horizontal projection or maintained trim line of the plants on the street side.
2. No fence, wall, or wall-like structure shall be so constructed or installed so as to constitute a hazard to traffic or safety.
3. A fence shall be determined by measuring from the lowest point of the original or natural grade of the undisturbed ground under the fence. Any fill material or berm that raises the height of the fence above the original or natural grade shall be considered a part of the fence.
4. Fences shall be constructed in such a manner that the dressed or finished side of such fence, where applicable, shall face the adjacent property or the public right-of-way excluding railroad property, and all supports for said fence shall be on the interior of said fence and property. This provision shall not preclude the construction and maintenance of a shadowbox type fence, provided that the dressed side of the fence material shall face the adjacent property or public right-of-way and shall be of the same texture, material and color.

5. All fences shall be maintained from the property on which it is located.
6. No fence or wall shall be constructed with barbed wire, metal spikes, electrified conductors or other such dangerous material or constructed in such manner as to be dangerous to animals or humans.
7. Translucent, transparent or clear plastic, or similar materials shall not be permitted.
8. Fences constructed of chain link, welded wire, or any flexible material, shall not be permitted in any front yard.
9. Decorative fence elements, such as one or two sections of split rail fences up to four (4) feet in height used as part of a general landscaping or decorative plan shall be exempt from the provisions of this paragraph, except that such decorative elements shall not be installed or erected within the sight triangle.

F. Maximum Height and Location:

1. On corner lots, the requirement for the side yard adjacent to the street shall be the same as the front yard requirement.
2. In any front yard, no fence or wall shall be permitted above the height of 30 inches.
3. Fences located in side or rear yards shall not exceed six feet in height.
4. In no case shall a fence be located closer than 10 feet to a curblin or to the edge of the paved roadway and not in the public right-of-way.
5. In rear or side yards, the only fences permitted are:  
A fence of durable material and of workmanlike construction, not more than six feet in height. Materials subject to sagging, warping or other distortion under normal usage shall not be considered as durable for the purposes of this subsection.

G. Exceptions for Corner Lots:

1. On any corner lot, an open fence, no more than fifty (50%) percent solid, may be constructed up to a height of four (4) feet in that area determined by the following boundaries:

- (a) The rear lot line.
- (b) A line parallel to the rear lot line drawn from the rear of the house to the street line.
- (c) A line drawn parallel to and 10 feet from the side street line.

However, no fence shall be installed such that it interferes with the sight triangle vision from a driveway on the lot or a driveway on any adjacent lot. Chain link fences shall not have privacy strips installed.

2. Split rail fences up to four (4) feet in height, composed of no more than two (2) horizontal members, may be located in any front yard.
3. Nothing contained in this ordinance shall prevent the erection of an open wire fence not exceeding eight feet above ground level, on any public property or public school property.

H. Swimming Pool Fences:

Every private swimming pool shall have a fence enclosure which complies with the requirements of §229-18.

I. Tennis Courts:

Fences up to 10 feet, as required around a tennis court shall meet the minimum side and rear yard requirements for an accessory building.

J. Hedges And Other Landscaping:

Hedges and other landscaping shall not be located so as to constitute a hazard to traffic or safety and in no case shall hedges be installed within the sight triangle or in any location that restricts traffic visibility. Any brush, hedges, shrubbery or other plant life growing within the sight triangle shall be cut and maintained to a height of not more than thirty (30) inches above the established grade of the street. Such brush, hedges, shrubbery or other plant life shall not overhang the curb or the edge of the pavement. Furthermore, any tree or shrubbery within the triangular area above described must be either less than thirty (30) inches in height, or, if

in excess of that height, no branches shall be nearer than eight feet to the ground.

Hedges and other landscaping planted as a wall-like structure shall not be placed within the public right-of-way.

J. Retaining walls:

The provisions of this chapter shall not be deemed to prohibit any necessary retaining wall.

K. Maintenance:

Whenever the owner, tenant or person responsible for a particular parcel of land erects a fence or hedge in accordance with the terms of this chapter, (s)he shall be responsible for continually maintaining such fence or hedge. Fences which are painted shall be painted in only one color. Multicolored fences are prohibited. Fences shall be erected in a manner so as to permit the flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding.

INTRODUCED: June 25, 2007

PUBLIC HEARING:

ADOPTED:

BOROUGH OF NEW PROVIDENCE  
COUNTY OF UNION  
STATE OF NEW JERSEY

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John A. Thoms, Mayor

Attest:

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Wendi B. Barry, Borough Clerk