

**§ 242-28. Fences and walls. [Added 5-1-2002 by Ord. No. 12-2002]**

A. General provisions related to fences and retaining walls.

(1) Permit required. **[Amended 7-18-2007 by Ord. No. 17-2007]**

(a) No fence, wall, or bulkhead shall be constructed on any lot without a building permit as required by the provisions of this section, the Borough Building Code, located in Chapter 93, and/or the Uniform Construction Code.

(b) A zoning permit shall be required for constructing any fence or retaining wall or bulkhead.

(c) For the purposes of Subsection A(1)(b) of this section, a retaining wall is any wall retaining earth or other material where the exposed face of the wall is greater than four feet high.

(2) An applicant who obtains a zoning or building permit has 12 months from the date the permit is issued to complete construction of the fence, bulkhead or retaining wall. If the fence, bulkhead or retaining wall is not completed within 12 months, the building or zoning official shall revoke the permit and the applicant may reapply. **[Amended 7-18-2007 by Ord. No. 17-2007]**

(3) No retaining wall or fence shall be erected in any location or to any such height so as to impair sight distance and affect safe ingress and egress from any lot or street.

(4) Any bulkhead wall along the shoreline of Lake Hopatcong or Bear Pond shall also comply with the provisions of § 242-30.

(5) This section shall not apply to arbors, provided that the same are located within the subject property and are located a minimum of 10 feet from any property line bordering on a right-of-way.

B. Fences.

(1) No fence shall be erected within five feet of a street right-of-way.

(2) All fences must be constructed on the property of the applicant.

- (3) Fences erected in a front yard shall not be more than four feet in height.
  - (4) Fences erected in the side or rear yard shall not exceed six feet six inches in height.
  - (5) For commercial or industrial property the maximum height shall be 10 feet. In addition, fences erected in the rear yard of lakefront properties shall conform to the rear yard provisions otherwise established in this chapter.
  - (6) All fences, when constructed, shall be placed such that the finished side faces adjoining properties and/or areas exposed to public view. **[Amended 7-18-2007 by Ord. No. 17-2007]**
  - (7) The foregoing limitations shall not apply to fences used in connection with agricultural uses, provided the same do not obstruct vision for purposes of traffic safety, nor shall said limitations apply to fences or walls required by the Planning Board in connection with site plan approval.
  - (8) All fences shall be constructed of chain link with a mesh size of 1 1/4 inches or greater, ornamental wire, wrought iron, wood or masonry. No fence shall be constructed of solid corrugated steel, solid sheet metal, barbed wire, razor wire, or any other material that has sharp or dangerous protrusions. Exceptions from the limitations of this section may be made by the Planning Board or Zoning Board of Adjustment for commercial property. **[Amended 7-18-2007 by Ord. No. 17-2007]**
- C. Retaining walls. Retaining walls may be constructed in accordance with the following requirements:
- (1) No retaining wall shall be erected within five feet of a street right-of-way line or side or rear property lines.
  - (2) No retaining wall shall be permitted to incorporate glass or spikes.
  - (3) All retaining walls shall be positively drained by providing sufficient underdrain installation. Surface drainage shall not be permitted to flow directly against the face of the wall.
  - (4) A retaining wall whose primary purpose is to bring the level of the property up to that of the roadway may be permitted to be constructed within a road right-of-way upon application to and approval by the Mayor and Council. The design and

construction of any such wall shall be subject to the approval of the Construction Official. The top of the retaining wall shall be no higher than the road grade or pavement. No approval under this subsection shall be construed as granting any rights to utilize the public right-of-way for any purpose other than access to the adjoining property.

D. Special provisions for railroad tie retaining walls.

- (1) Railroad tie retaining walls may be constructed to a maximum height of 64 inches above ground. If a railroad tie retaining wall exceeds 64 inches, the wall shall be designed as a closed-face timber curb retaining wall with a maximum height of 12 feet and shall be designed by a professional engineer or architect.
- (2) Railroad tie retaining walls shall conform to the requirements of the Borough Building Code.
- (3) Railroad tie retaining walls shall conform to the following minimum requirements:
  - (a) Tiebacks shall be a minimum of seven feet and shall be provided with a four-foot minimum length deadman.
  - (b) Tiebacks shall be installed on alternate courses at 16 feet on center and shall be offset horizontally eight feet from the tieback below.
  - (c) The face of the wall shall have a minimum batter of two inches per foot.
  - (d) The bottom course of the tie wall shall be set in an eight-inch sand bed and shall be pinned to firm ground with two one-half-inch-diameter steel rods per bottom tie. The top of the bottom course tie shall be set at the finished grade at the bottom of the wall.
  - (e) All ties shall be spiked with four drift pins per tie and shall be of sufficient length to penetrate two members and four inches into the third member.
  - (f) All cuts or bored holes should be, but are not required to be, coated with two coats of a wood preservative to treat the timber.