

**BERNARDSVILLE BOROUGH
ORDINANCE #2022-1930**

**AN ORDINANCE ESTABLISHING PERIMETER FENCE REGULATIONS AND
SUPPLEMENTING AND AMENDING ARTICLE XII OF THE BOROUGH LAND
DEVELOPMENT REGULATIONS ENTITLED “ZONING”**

WHEREAS, the Housing, Property Maintenance and Zoning Compliance Advisory Committee has recommended that the Borough adopt a perimeter fence ordinance;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Article XII of the Borough Land Use Ordinances entitled “Zoning” be amended as follows:

Section 1. Section LD 12-23 entitled “Supplementary Regulations and General Provisions” is supplemented and amended by adding a new subsection LD 12-23.23 entitled “Fencing” which reads as follows:

“§LD-12-23 Perimeter of Fences and Walls

- A. Fences covered. Fences built along the parameter of lots in the residential districts. A fence is any manmade structure which would restrict movement between lots. The term fence does not include hedges except as provided in paragraph 3. The term fence does include walls.
- B. Fences not subject to this ordinance:
 - i. Fences required by any legal requirement relating to swimming pools,
 - ii. Fences constructed around tennis, basketball, and pickle ball courts and similar athletic facilities constructed in compliance with the Borough’s land use ordinances,
 - iii. Fences constructed around the periphery of gardens
 - iv. Fences governed by the Borough or state Right to Farm regulations
- C. Maximum height of fences, subject to the provisions relating to Deer Fencing, in zones 3, 4 and 5:
 - i. The maximum height of a fence other than in the front yard shall be 6 feet; and
 - ii. The maximum height of a fence in the front yard shall be 4 feet; and
 - iii. The maximum height of a gateway post shall be 10% greater than the maximum height of the fence to which it is attached.
 - iv. The height of a fence shall be measured from the ground to the top of the fence on the side of the fence for which the natural grade is lower.

- v. Hedges in zone 3, 4 and 5 shall be subject to the height limitations set out in this paragraph 5.
- D. Prohibited fence materials, subject to the provisions relating to deer fencing, no fence or any part of it shall be constructed using:
 - i. Barb wire, razor wire, accordion wire or other materials having sharp edges or points or such other materials as are dangerous to animals or humans; or
 - ii. Electrified wire; or
 - iii. For front yard fences, welded wire, steel chain link, rebar, concrete block, concrete, masonry lime or flue tile, or mesh or lathe made of any material.
- E. Fence permits:
 - i. Fences greater than 2.5 feet in height shall require the appropriate permit from the building officer
- F. Construction of fences:
 - i. Fences must be constructed within the property lines of a lot and may not encroach on a public road or public right of way, except that the Zoning Officer, in accordance with the provisions of Borough Code Section 14-1.8, may permit a fence to be constructed in the unpaved portion of the right of way if it does not constitute a safety hazard in the opinion of the Chief of Police or his designee.
 - ii. Fences bordering a street must be built at least 10 —feet from the edge of the street pavement, or if there is a sidewalk along the edge of the street when the fence is constructed, 2 feet from the inner edge of the sidewalk, except that the Zoning Officer, in accordance with the provisions of Borough Code Section 14-1.8, may permit a fence to be constructed closer to the paved portion of the right of way or the sidewalk if it does not constitute a safety hazard in the opinion of the Chief of Police or his designee.
 - iii. Fences may not be constructed to obstruct any easement permitting passage over a lot. [E.g. Emergency vehicle access easements.]
 - iv. Fences to be constructed so the “finished” side faces away from the center of the lot.
 - v. Fences on corner lots must comply with 12-23.5 of the Land Use Code.¹
 - vi. Construction of fencing shall not result in damming or diverting of water.
 - vii. Front yard fences may not be constructed so that more than fifty percent (50%) of its surface area obstructs a view through the fence, from a position perpendicular to the fence.

¹ That section provides that: “On any corner lot in any residence zone district no fence, structure or planting over 30 inches in height above the curb or edge of roadway shall be erected or maintained within 20 feet of the corner property line so as to interface with traffic visibility across the corner.”

- viii. Fences shall be symmetrical in appearance; shall have posts or columns separated by identical distances; and shall consist of material conforming to a definite pattern.
- ix. Fences shall be constructed so as to provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety. The building officer may, in his or her reasonable discretion, require the applicant for a fence permit to obtain certification from the fire chief that this condition is met.

G. Maintenance of Fences:

- i. Fences shall be kept in good maintenance and repair. The property owner shall be responsible for fence repair and maintenance.
- ii. The sides of fences facing public rights of way and neighboring properties shall be kept clean and free of mold and mildew and of overgrowth of vegetation. Graffiti on such sides of fences shall be removed within 14 days of the property owners learning of it, unless such graffiti was placed on the wall by a neighboring property owner or resident.

H. Deer fences:

- i. Notwithstanding the other provisions in this ordinance relating to restrictions on the height of a fence, the maximum height of deer fences shall be 10 feet.
- ii. Notwithstanding the other provisions in this ordinance relating to restrictions on fencing material, deer fences may be made of welded wire or mesh.
- iii. As used in this ordinance a deer fence is a fence:
 - a. Specifically constructed to control the movement of deer;
 - b. Constructed of vinyl or vinyl coated materials, and wood, iron or steel uprights
 - c. Dark green, black, or brown in color,
 - d. Have openings no smaller than four square inches,
 - e. Where possible, not break up contiguous forest tracts,
 - f. Constructed in a manner that allows deer to travel from property to property without using public roads, and
 - g. Protective of riparian corridors where feasible.

I. Nonconforming fences:

- i. Fences which existed prior to the date of the adoption of this ordinance may be repaired and/or maintained as their original structure and design.

J. Design guidebook:

- i. Property owners wishing to install fences should refer to the attached guidebook of preferred fence design but are not required to adopt the designs contained in the fence design book.

K. Definition of front yard:

- i. For the purposes of this ordinance, the front yard includes all the space between the street or streets on which a lot is situated and the line of the building paralleling that street.”

Section 2. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 3. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 4. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

Anthony Suriano, Borough Clerk

By: _____
Mary Jane Canose, Mayor

1st Reading and Introduction: _____

1st Publication: _____

Referral to Planning Board: _____

Notice to County Planning Board Prior to Adoption: _____

Notice to Clerks of Adjoining Municipalities (if required): _____

Notice to Affected Property Owners (if required): _____

2nd Reading and Adoption: _____

2nd Publication: _____

Filing with County Planning Board: _____