

August 17, 2023

Ordinance #436.2023

**AN ORDINANCE OF THE TOWNSHIP OF BETHLEHEM AMENDING
AND SUPPLEMENTING SECTION 102-19 OF THE TOWNSHIP
OF BETHLEHEM CODE WITH RESPECT TO FENCING AND WALLS**

WHEREAS, the Township of Bethlehem is promoting aesthetic improvement, protecting public health and safety, and modernizing standards with respect to fencing and walls; and

WHEREAS, the Township wishes to amend and supplement Section 102-19 of the Township of Bethlehem Code with the additions shown in underline and deletions shown in brackets; and

WHEREAS, a copy of said Ordinance is attached hereto and on file with the Municipal Clerk's Office for review; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bethlehem, County of Hunterdon and State of New Jersey that it hereby adopts the attached Ordinance, entitled Chapter 102. LAND USE AND DEVELOPMENT, Article V. General Requirements and Design Standards, § 102-19. Fences, walls and sight triangles.

BE IT FURTHER ORDAINED that if any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective. All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

Chapter 102. Land Use and Development

Article V. General Requirements and Design Standards

§ 102-19. Fences, walls and sight triangles.

A.

All fences shall require either zoning clearance/approval or approval of an application to the Planning Board and shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. All permitted fences shall be located two feet from the property lines, a minimum of 2' from the side and rear property lines and 10' from any adjacent roadway surface, whichever is greater, in order to allow for maintenance. No fence shall be erected of barbed wire, topped with metal spikes nor constructed of any material or in any manner which may be dangerous to persons or animals, except that these provisions shall not apply to farms and except, further, that permitted fences in nonresidential districts may be topped by a barbed wire protective barrier and except, further, that requirements of state or federal regulations shall prevail.

[Amended 2-16-2017 by Ord. No. 436.2017]

B.

On any lot in any district, no wall shall be erected or altered so that said wall shall be over five feet (5') in height, and no fence shall be erected or altered so that said fence shall be over five feet (5') in height in any required front yard and eight feet (8') in height in any required side and rear yard, with the following provisions and exceptions, subject to county, state and federal regulations;

[Amended 2-16-2017 by Ord. No. 436.2017]

(1)

A dog run or other animal containment area may have fencing a maximum of eight feet in height, provided that such area is located in rear yards only and is set back from any lot line the distance required for accessory buildings in the zoning district as stipulated in Article **IV** or **VI**.

(2)

A private residential swimming pool area must be surrounded by a fence at least four feet in height. Swimming pool areas shall be located in rear and side yards only. See § **102- 32** for additional standards. Notwithstanding, any such fencing shall comply with any and all requirements imposed by the State of New Jersey.

(3)

A tennis court area, located in rear yards only, may be surrounded by a fence a maximum of 15 feet in height; said fence to be set back from any lot line the distance required for accessory buildings in the zoning district as stipulated in Article **IV** or **VI**.

(4)

Fences not within any required front, side or rear yards are permitted to be up to 10 feet in height.

(5)

Buffer areas shall meet the requirements specified in §102-23.

(6)

Off-street parking, loading and driveway access shall meet the requirements specified in § **102-25**.

(7)

Fencing for the containment or exclusion of wild and/or domestic animals within or from the property boundaries shall have a finished installation height not to exceed 11 feet. Such fencing shall be only constructed of high- tensile woven wire or similar material deer netting that does not exceed a 12 gauge thickness, and shall be staked and secured at ground level and shall not have caps, rails or cable at its top edge.

(8)

Any installation that complies with the provisions of this Ordinance shall require the issuance of a zoning clearance/approval only and shall not require approval of an application to the Planning Board

(9)

Fencing to be utilized as screening of utilities shall require the issuance of a zoning clearance/approval only and shall not require approval of an application to the Planning Board provided that it does not exceed two (2) linear feet on any one side of the utilities.

C.

Sight triangle easements shall be required at intersections, in addition to the specified right-of-way widths, in which no grading, planting or structure shall be erected or maintained more than 30 inches above the street center line, except for utility poles, street signs, fire hydrants and light standards. The "sight triangle" is defined as that area outside of the street right-of-way which is bounded by the intersecting street lines and the straight-line connecting sight points, one each located on the two intersecting street center lines: arterial streets at 300 feet, collector streets at 200 feet and local streets at 90 feet. Where the intersecting streets are both arterials, both collectors or one arterial and one collector, two overlapping sight triangles will be required, formed by connecting the sight point noted above with a sight point 90 feet on the intersecting street. (See the diagram at the end of this chapter). Such easement dedication shall be expressed on the plat or plan as follows: "Sight triangle easement deeded for purposes provided for and expressed in the Land Development Ordinance of Bethlehem Township." The requisite sight triangle easements shall be as outlined in Attachment 102-14 of the Township Ordinances or the definition of "sight triangle easement" outlined in Section 102-30 of the Township Ordinances, as applicable.

All installations pursuant to the provisions of this Ordinance shall be located outside of any required sight triangles as determined by the Township Engineer, as and if necessary.

D.

Gates and Driveway Gates

- (1) A Gate shall be defined as any closure of a wall, fence or hedge row that does not constitute a Driveway Gate as defined below.
- (2) A Driveway Gate shall be defined as a Gate located at a driveway or other vehicular entrance to a property.
- (3) All Gates and Driveway Gates shall not swing towards the roadway.
- (4) A Gate may be connected to a wall, fence or hedge row that measures no more than eight feet (8') in height and eight feet (8') in length and is otherwise in compliance with the provisions of this Ordinance. Any portion of such wall, fence or hedge row in excess of eight feet (8') in length shall taper down to five feet (5') in height within the next eight feet (8') in length.
- (5) A Driveway Gate shall not be greater than eight feet (8') in height and twenty feet (20') in length.
- (6) Any Driveway Gate shall be located at least twenty-five feet (25') from the roadway and shall not be longer than the width of the driveway or entrance at which it is located.

E.

All installations subject to this Ordinance that are in existence as of the date of adoption of this Ordinance shall be permitted to continue and portions thereof shall be permitted to be replaced provided the replacement does not exceed the existing height of such fence or gate or the maximum height permitted by this Ordinance. Any new installation shall be required to comply with the provisions of this Ordinance. If an entire installation is removed at any one time, any replacement thereof shall also be required to comply with the provisions of this Ordinance.

F.

Definitions

- (1) Fence: a structure erected at grade for the purpose of defining boundaries of property, separating open space, restricting ingress to or egress from property, providing security or protection to property, acting as a visual or acoustic screen or serving to contain or exclude wild and/or domestic animals within or from the property boundaries. The definition of fence shall not include material utilized for temporary seasonal protection of landscaping, temporary protection of landscaping from being harmed by animals, and/or temporary protection of immature landscaping to ensure growth. Such material shall be excluded from the definition of fence provided that it does not exceed two (2) linear feet on any one side of the landscaping which it is protecting.
- (2) Gate: a barrier to close an opening in a wall, fence or hedge row.
- (3) Hedge Row: Continuous landscaping installed for the purpose of defining boundaries of property, separating open space, restricting ingress to or egress from property, providing security or protection to property or acting as a visual or acoustic screen.
- (4) Landscaping: For purposes of this Ordinance, landscaping shall include living plants such as grasses, shrubs, trees, lawns, flowers, ornamental plantings, other horticultural elements, seeding, sod and/or other vegetative and plant materials
- (5) Wall: a structure secured below grade with a foundation for the purpose of defining boundaries of property, separating open space, restricting ingress to or egress from property, providing security or protection to property or acting as a visual or acoustic screen.

G. General Provisions

- (1) The provisions of the Right to Farm Act, codified at N.J.S.A. 4:1C-1, et seq., shall supplement the provisions of this Ordinance. Any provisions of the Right to Farm Act that contradict or are contrary to the provisions of this Ordinance shall supersede the same.