

**BEN AVON BOROUGH
ORDINANCE NO. 796**

AN ORDINANCE AMENDING ARTICLE IV, SECTION 409 OF THE AVALON-BELLEVUE-BEN AVON JOINT ZONING ORDINANCE TO FURTHER PROVIDE FOR FENCES, WALLS AND SCREENING REQUIREMENTS

WHEREAS, the Avalon-Bellevue-Ben Avon Joint Zoning Ordinance (“Joint Zoning Ordinance”) contains errors at Section 2000-409 Accessory Building, Structures, Uses and Events; and

WHEREAS, the Joint Zoning Ordinance at Section 2000-409.A permits accessory buildings, structures, uses and events within Residential Zoning Districts; and

WHEREAS, the Joint Zoning Ordinance at Section 2000-409.B permits accessory uses and structures in Mixed-Use and Nonresidential Zoning Districts; and

WHEREAS, the Joint Zoning Ordinance at Section 2000-409.C(1) regulates fences for all Zoning Districts; and

WHEREAS, the Borough Council wishes to amend the Joint Zoning Ordinance to replace Section 2000-409.A(2), permitting fences, walls or hedges within Residential Zoning Districts; and

WHEREAS, the Borough Council wishes to amend the Joint Zoning Ordinance to correct the errors at Section 2000-409.B Permitted Accessory Uses and Structures in Mixed-Use and Non-residential Zoning Districts; and

WHEREAS, the Borough Council wishes to amend the Joint Zoning Ordinance to replace Section 2000-409.C(1), regulating fences; and

WHEREAS, the Avalon-Bellevue-Ben Avon Joint Planning Commission, pursuant to the provisions of the Joint Zoning Ordinance, has drafted and reviewed the following amendment and made a recommendation to the Councils of the Boroughs of Avalon, Bellevue and Ben Avon regarding the same; and

WHEREAS, The Councils of the Boroughs of Avalon, Bellevue and Ben Avon did hold a public hearing on the 28th day of November, 2023, after giving due public notice; and

WHEREAS, the Allegheny County Economic Development has had the opportunity to review the proposed amendment.

NOW, THEREFORE BE IT ORDAINED by the Council of the Borough of Ben Avon, pursuant to the authority conferred by 1984 Pa. Laws 164, codified at 74 Pa. Cons. Stat. §§ 5912, *et seq.*, and the Pennsylvania Municipalities Planning Code, that the Joint Zoning Ordinance be amended as follows:

I. The Joint Zoning Ordinance, Article IV, Section 2000-409.A(2) is hereby replaced with the following:

(2) Fences, walls and screening in accordance with §2000-409.C(1), except as required for chickens and bees in §2000-409.A(13) and (14).

II. The Joint Zoning Ordinance, Article IV, Section 2000-409.C. Permitted Accessory Uses and Structures in Mixed-Use and Non-residential Zoning Districts is hereby replaced with the following: Section 2000-409.B. Permitted Accessory Uses and Structures in Mixed-Use and Non-residential Zoning Districts.

III. The Joint Zoning Ordinance, Article IV, Section 2000-409.B(5) Fences, hedges and/or walls subject to provisions of §2000-409.D(1) is hereby replaced with the following:

(5) Fences, walls and screening in Mixed-Use and Non-residential Zoning Districts subject to provisions of Article VI Uses by Special Exception.

IV. The Joint Zoning Ordinance, Article IV, Section 2000-409.C(1) Fences is hereby replaced with the following:

(1) Fences, walls and screening in all Zoning Districts

(a) Section purpose. Fences, walls, and screening can provide many benefits both to the owner of the property on which they are situated and to the public at large. However, certain aspects of these structures must be limited in order to protect a community's appearance and public safety. This section's purpose is to provide such limitations and clarifications in all Zoning Districts.

(b) Fence, wall, and screening limitations. Fences, walls, and screening may be erected in any yard subject to requirements of the Zoning District in which they are to be erected, the limitations in the following table, and the controls of Subsection (d) below. Note that heights should be measured from the average finished grade within two (2) feet of the fence line. When a fence is placed atop a retaining wall, the height of the fence shall be determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finished grade.

Areas Zoned Residential:

Location	Maximum Height (feet)	Minimum Setback (feet)	Maximum Percent Solid to Open (Opacity)
Noncorner lots:			
Front	4	3	50%
Side	6	0	100%
Rear	6	0	100%
Corner lots:			
Front	4	3	50%
Side (street)	4*	3	100%
Side yard (non-street)	6	0	100%
Rear	6	0	100%

NOTE:

** Fences, walls, and screening up to 6 feet in height may be approved for Areas Zoned Residential, Corner lots: Side (street) as a special exception under the condition that a fence, wall, or screen shall not block the clear sight distance at street intersections or driveways.*

Areas Zoned Mixed-Use:

Location	Maximum Height (feet)	Minimum Setback (feet)	Maximum Percent Solid to Open (Opacity)
Noncorner lots:			
Front	6	3	50%
Side	6	0	100%
Rear	6	0	100%
Corner lots:			
Front	6	3	50%
Side (street)	6	3	100%
Side yard (non-street)	6	0	100%
Rear	6	0	100%

Areas Zoned Commercial and Industrial:

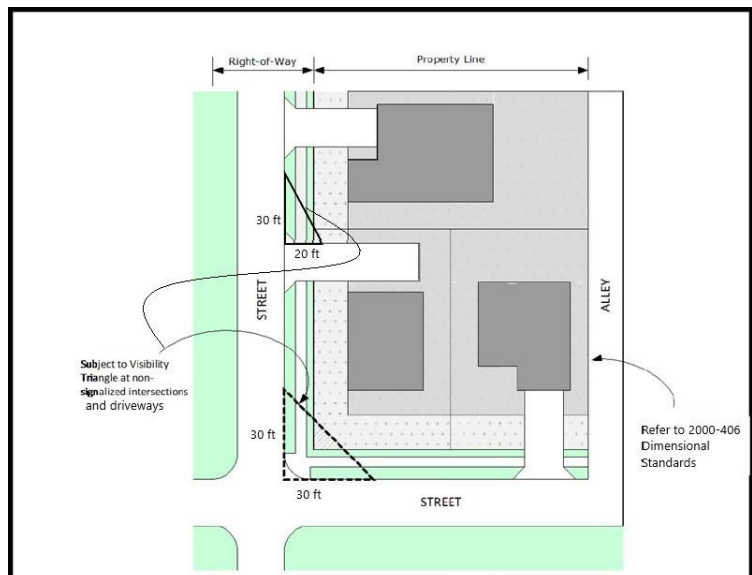
Location	Maximum Height (feet)	Minimum Setback (feet)	Maximum Percent Solid to Open (Opacity)
Noncorner lots:			
Front	6	3	50%
Side	10	0	100%
Rear	10	0	100%
Corner lots:			
Front	6	3	50%
Side (street)	6*	3	100%
Side yard (non-street)	10	0	100%
Rear	10	0	100%

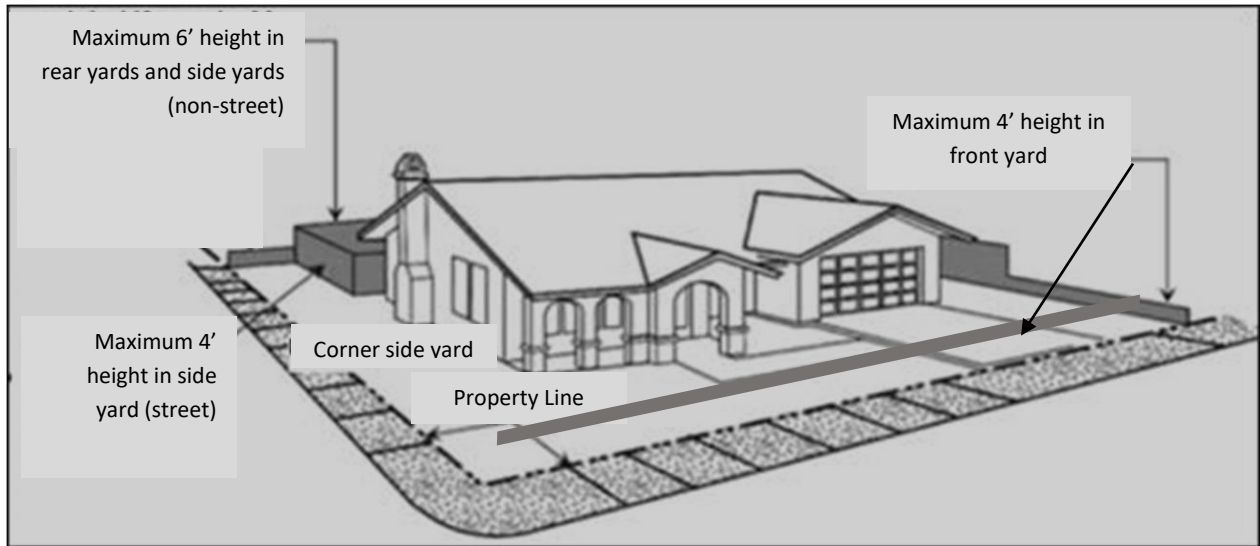
*NOTE: * Fences, walls, and screening up to 10 feet in height may be approved for Areas Zoned Commercial and Industrial, Corner lots: Side (street) as a special exception under the condition that a fence, wall, or screen shall not block the clear sight distance at street intersections or driveways.*

(c) Other fences, wall, and screen regulations.

(1) A fence, wall, or screen shall not be erected in a public or dedicated right-of-way.

(2) A fence, wall, or screen shall not block the clear sight distance at street intersections or driveways. See illustrations below for reference.





(3) A fence, wall, or screen shall not include barbs, thorns, other harmful projections, or electric wires designed to shock (i.e., barricade fences). However, nothing contained in this provision shall prohibit fences consisting of underground electrical wiring and commonly referred to as “silent” or “invisible” fences used to control pets.

(4) The finished side of fences, walls, or screens shall always face any abutting streets or properties; all bracing shall be on the inside of the fence.

(5) Any chain-link, chicken-wire, or metal mesh fence or wall shall be galvanized or otherwise treated to prevent the formation of rust.

(6) All fences, walls or screening shall be maintained in a sturdy and good condition.

(7) See references below for examples of opacity:

