

## ORDINANCE 71-2007

### ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195, LAND DEVELOPMENT, OF THE MADISON BOROUGH CODE REGARDING THE REGULATION OF FENCES AND WALLS

**WHEREAS**, over the course of several meetings, the Madison Planning Board reviewed the provisions of the Land Development Ordinance which regulate the installation of fences and walls in the Borough and has recommended that the Borough Council consider certain amendments to those regulations to advance safety and aesthetic purposes; and

**WHEREAS**, the Madison Planning Board has determined that the recommended changes to the fence and wall regulations are substantially consistent with the 2002 Master Plan which in part sought to preserve the residential character of the Borough; and

**WHEREAS**, the Borough Council has determined to make such recommended amendments.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Madison, in the County of Morris and the State of New Jersey, as follows:

**SECTION 1.** That Section 195-7 of the Borough Code is amended to modify the definitions of fence and wall by adding a second sentence to each definition and by adding a new definition of retaining wall as follows: [New wording is underlined.]

#### § 195-7. Definitions

FENCE - A structure made of posts or stakes, joined together by boards, wire or rails, serving as an enclosure, a barrier or as a boundary. The height of a fence shall be measured from the ground surface at the base of the fence to the highest part of the structure above the base except that posts shall be permitted to extend up to 6 inches above the height limit. An open fence shall be considered a structure having voids comprising 45% or more of the fence façade area. Typical open fence styles include post and rail, chain link, spaced picket, and ornamental rigid metal. All other fences and walls shall be considered solid fences. Typical solid fence styles include stockade, board-on-board, and solid picket.

WALL - A solid, vertical structure of wood, masonry or other material serving to enclose, divide, retain or protect an area. The height of a wall shall be measured from the ground surface at the base of the wall to the highest part of the structure above the base including any fence placed on top of a wall. All walls shall be considered solid fences.

WALL, RETAINING – A type of wall that is constructed between lands of different elevation to stabilize the land surfaces. The height of a retaining wall shall be measured from the lowest ground surface at the base of the wall to the highest part of the structure above the base including any fence placed on top of a wall. Where a series of retaining walls are located on the same slope, the wall height shall be calculated as the sum of the wall heights in the series of walls.

**SECTION 2.** That Section 195-25.5 of the Borough Code concerning fences and wall is to be replaced in its entirety by the following:

### **§ 195-25.5. Fences and walls including retaining walls**

Fences or walls in excess of 18 inches in height shall be considered as structures accessory to a principal permitted use and shall be permitted in accordance with the standards set forth below:

A. Maximum height and location in residential zones.

All fences and walls in residential zones shall comply with the standards in Schedule A – Fence And Wall Diagram.

B. General regulations for fences and walls including retaining walls.

(1) No fence or wall shall be constructed or installed so as to constitute a hazard to traffic or safety.

(2) No fence or wall in a residential zone shall be greater than six feet in height except in the case of tennis court and similar sports court facilities.

(3) In all nonresidential zones no fence shall exceed 6 feet in height. On properties with nonresidential uses which abut residential uses, any open fencing shall be buffered with evergreen landscaping.

(4) Except for locations within sight triangles, hedges and other landscaping shall be exempt from the height limitations of this subsection, but shall not be located so as to constitute a hazard to traffic or safety.

(5) The face or finished side of a fence or wall shall face the adjacent property or street.

(6) No fence or wall shall be constructed with barbed wire, metal spikes or other such dangerous material or constructed in such manner as to be dangerous to animals or humans.

(7) No fence or wall shall be constructed without the issuance of a zoning permit or a building permit.

(9) All fences and walls shall be contained within the property lines of the parcel containing the principal use.

10) Retaining walls over 18 inches in height shall be set back from any property line by at least 2 feet or setback a distance equal to the height of the retaining wall or retaining wall series, whichever is greater.

D. Swimming pool fences. Every private swimming pool shall have a fence enclosure which complies with the New Jersey Uniform Construction Code.

E. Retaining walls. Any retaining wall 48 inches or greater in height or a series of retaining walls along the same ground slope which together total 48 inches or greater in height shall require a building permit.

**SECTION 3.** All ordinances or parts thereof which are inconsistent or in conflict with the provisions of this ordinance or any part thereof are hereby repealed to the extent of said inconsistency or conflict.

**SECTION 4.** This ordinance shall take effect as provided by law.

ADOPTED AND APPROVED

November 26, 2007

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ELLWOOD R. KERKESLAGER, Mayor

Attest:

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MARILYN SCHAEFER, Borough Clerk

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