

§ 170-91. Fences. [Added by Ord. No. 4-2003]

- A. Purpose. It is the intent and purpose of this § 170-91 to maintain and preserve the traditionally open landscape of the Township of Livingston by limiting and regulating the design, erection, enlargement, maintenance or replacement of fences and retaining walls.
- B. In all residence districts and in the R-6 Senior Citizen Housing District:
- (1) No fence shall be erected or enlarged either within 25 feet of the intersection of streets or of roadway right-of-way lines or in such a manner as to interfere with traffic visibility and lines of sight across a corner or within 25 feet from any intersection.
 - (2) Front yard.
 - (a) Front yard fence means any fence that is on a residence property at any point forward of the plane of the front facade of the residence.
 - (b) A front yard fence shall not be taller than 48 inches at its highest point nor less than 50% open, such as picket fences and post and rail fences, but in no instance shall a front yard fence be made of chain link or similar materials.
 - (c) Decorative walls, not more than 18 inches high at their highest point, that are erected as part of a general landscaping plan may be erected and maintained with a set back of not less than 20 feet from the front property line.
 - (d) In no instance shall any fence be erected which will block the visibility of the house number from viewing from the street.
 - (3) Side yard.
 - (a) Side yard fence means any fence that is on a residence property at any point between the plane of the front facade of the residence and the plane of the rear facade of the residence.
 - (b) A side yard fence that does not face a street or public right-of-way shall be no higher than 60 inches at its highest point.
 - (c) A side yard that faces a street or public right-of-way shall be treated as a front yard for purposes of this § 170-91.
 - (4) Rear yard.
 - (a) Rear yard fence means any fence that is on a residence property at any point between the plane of the rear facade of the residence and the rear property line.
 - (b) A rear yard fence shall not be taller than 72 inches at its highest point.
 - (c) A rear yard fence which faces a street or public right-of-way shall not be constructed or enlarged:
 - [1] Of chain link or similar materials; or
 - [2] Closer to the street or public right-of-way than a line extended from the residence facade facing such street or right-of-way to the rear property line; or
 - [3] Within the greater of two feet of any sidewalk or public easement or eight feet of the street or of a roadway right-of-way.
 - (5) Every fence facing a street or any public right-of-way and taller than 36 inches at its highest point shall be screened from public view by evergreen plantings that shall have a height, at planting, equal to not less than 50% of the height of the fence.
 - (6) In determining what percentage of a fence is open, translucent, transparent or clear materials shall be considered as solid elements.

- (7) The setback for any fence that must be screened as provided in Subsection B(5) above shall be increased by not less than three feet so to provide sufficient space for the required plantings.
 - (8) Every fence that has only one finished side shall have that side facing away from the property that is fenced.
 - (9) Whenever a chain link fence is permitted, the chain links shall be vinyl-clad and the other elements of the fence shall be of matching color. Only one color shall be used, and the color may be black, brown or green.
 - (10) No fence or retaining wall shall contain sharp spikes or points, jagged or sharpened, surfaces or other components or materials that may cause injury, and no fence or retaining wall shall be constructed of nonstandard or makeshift materials creating an eyesore.
 - (11) Every fence shall be maintained in safe, sound and upright condition and in good appearance. Every planting required by this section shall be maintained in good condition and pruned so as not to intrude upon any sidewalk, right-of-way or easement, and any required plantings that die shall be replaced with healthy plantings of the same size as originally required.
 - (12) No retaining wall may be erected or installed in lieu of a fence not permitted under this § 170-91.
 - (13) If a fence or retaining wall has a gate or door, such gate or door shall not open in such a way as to intrude upon any right-of-way, sidewalk or easement for a sidewalk.
 - (14) Any nonconforming fence or retaining wall lawfully in existence on the effective date of this § 170-91, if destroyed or removed, may not be replaced unless replaced by a conforming fence or retaining wall; provided, however, that a nonconforming front yard fence or retaining wall on a property designated as an historic site, as provided in § 170-3, may be replaced with a fence or retaining wall faithful to the style of the property's architecture and historic period.
 - (15) No retaining wall or rear yard fence facing a street or public right-of-way shall be erected, installed or enlarged without a permit therefor issued by the Construction Official upon application as provided in § 170-87B.
 - (16) No permit for a retaining wall shall be issued without a determination by the Township Engineer that the wall's design is safe and adequate for its intended purpose and that it will not interfere with traffic visibility or safety. If the Township Engineer determines that safety considerations mandate that a retaining wall be higher than a fence permitted under this § 170-91, the Township Engineer shall make a recommendation to the Planning Board or the Zoning Board of Adjustment, as appropriate, as to justification of a variance.
 - (17) No fence visible from a street or roadway right-of-way or facing another property shall be erected or enlarged on the property of a nonconforming or conditional use in a residence district without application to, and approval of, the Planning Board or the Zoning Board of Adjustment, as appropriate.
 - (18) Nothing in this § 170-91 supersedes requirements established elsewhere in this chapter concerning the fencing of private swimming pools or private tennis courts.
- C. Nonresidential districts. In nonresidential districts no fence or retaining wall shall be erected or enlarged without application to, and approval by, the Planning Board or the Zoning Board of Adjustment, as appropriate.
- D. Enforcement. This § 170-91 shall be enforced as follows:
- (1) Any fence or retaining wall erected, installed, enlarged or maintained in violation of this

section shall be removed, or the violation otherwise cured, by the owner within 30 days after receipt of a notice of violation from the Zoning Officer. Such notice shall be deemed to be properly and sufficiently served if copy thereof is sent by registered or certified mail to the last known address of the person, persons, entity or entities upon which the same is served, as shown by the most recent tax lists of the Township, or if a copy of such notice is handed to such person, persons, entity or entities, or a copy thereof is left at the usual place of abode or business of such person, persons, entity or entities. The notice shall state that if the violation has not been cured within such thirty-day period, or such additional time as may be allowed by the Township, a summons and complaint shall then be issued against the person, persons, entity or entities so notified.

- (2) Any person or entity who shall violate any of the provisions of this § 170-91 shall, upon conviction after issuance of a summons and complaint, be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 90 days, or by both fine and imprisonment. Each violation of any provisions of this section shall be deemed a separate and distinct offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues after expiration of the time for cure allowed under Subsection D(1) above.