

BOROUGH OF FRANKLIN

ORDINANCE No. 12-2020

AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY AMENDING SECTION 161-24 REGARDING FENCES

BE IT ORDAINED by the Mayor and Council of the Borough of Franklin, County of Sussex, and State of New Jersey that the Franklin Borough Code is amended as follows:

SECTION I.

Section 161-3 is amended to add the following definition:

FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

SECTION II.

Subsection 161-24(E) is replaced as follows:

Section 161 – 24(E) Fences and Walls. All of the regulations of this section apply to both residential and commercial zones unless noted.

(1) Fences and freestanding walls in excess of 18 inches in height shall be considered as accessory structures and are permitted in accordance with the standards set forth. Fences or freestanding walls that are 18 inches or less in height are not subject to regulation.

(2) Fences 48 inches or higher require a permit from the zoning inf officer. Lower fences do not require a permit. Repairs and replacement in the same location and with the same material do not require a permit.

(3) Solidity of Fence/Height of Fence.

(a) The calculation of the percentage of a fence considered to be “solid” is based on the total area of the solid elements of a fence (whether or not an element is clear, transparent or translucent) divided by the total area of the fence. The area of the solid elements shall not include the posts nor any typical crossmember/stringer of a fence panel to support or stiffen the same. The fence area shall be the area enclosed by the geometric shape formed by connecting each point on the outer edges of the solid elements of a section of fence between two posts (i.e. “the panel”). Mesh privacy screening on a fence shall be considered 100% solid.

(b) The nominal height of a fence shall be measured from the lowest point of the bottom of the panel to the highest point of the top of the panel. The elevation height of a fence shall be calculated by measurement from the finished grade plus two inches for ground clearance. If the grade below a fence panel is uneven, a maximum

variance of eight inches across the width of the panel is allowed. If the topography is sloped, the fence panels may be installed in a "stepped fashion" or sloped with the grade. Posts and similar elements shall not be included in the height measurement provided they do not exceed the height of the panels by more than one foot.

(4) General Principles and Restrictions.

(a) The finished side of all fence surfaces shall face adjacent properties and side streets.

(b) No fence shall be erected of barbed wire, razor wire or concertina wire or contain an electric charge or similar harmful elements. This restriction shall be inapplicable to barbed wire or electric fences used on farms. This restriction on electric fences shall be inapplicable to fences meeting UL standards and installed per manufacturer's standards and latest NEC standards and used as a means to enclose, corral or protect animals, crops or vegetation, provided warning signs are placed on the fence and the area enclosed is reasonably located to effectuate the purpose of the fence. In a commercial zone, a fence enclosing a lot may be topped by no more than three strands of barbed wire, which wire is no closer to the ground than six feet.

(c) Subject to (b) above, no fence or wall shall be constructed in any manner or location that renders it dangerous to persons, animals or property.

(d) No fence or wall shall be erected in a prescribed sight triangle or so as to interfere with the required sight distance for a driveway or in a location that presents a hazard to the safe operation of a motor vehicle.

(e) No fence anywhere in a front yard, including a fence running along or approximately parallel to a side lot line within a front yard, shall be more than four feet in nominal height or four feet two inches in elevation height or more than 50% solid. In a commercial zone, no fence anywhere in a front yard, including a fence running along or approximately parallel to a side lot line within a front yard, shall be more than six feet in nominal height or six feet two inches in elevation height or more than 50% solid. In an industrial zone, the height limit shall be eight feet in nominal height or eight feet two inches in elevation height.

(f) No fence, running substantially along a rear lot line, or approximately parallel thereto, or otherwise in a rear yard, and no fence running substantially along a side lot line or approximately parallel thereto or otherwise in a side yard, shall exceed six feet in nominal height or six feet two inches in elevation height. However, where a rear yard or side yard of a corner lot abuts a side lot line and front yard of an adjacent lot, then in no event shall a fence in such rear or side yard on the corner lot exceed four feet in nominal height or four feet two inches in elevation height, or be no more than 50% solid for such portion thereof which lies parallel to or otherwise substantially alongside the front yard of the adjacent lot.

(g) Fences and walls shall not be erected in a street right-of-way, but may be erected on the lot side of a street right-of-way, provided they are set back a minimum of six inches from the right-of-way and are not installed so as to constitute a traffic or other hazard.

(h) Walls of masonry or natural stone (not retaining walls), such as New England drywalls and rows of fieldstone, shall not exceed a height of four feet.

(i) The following fences and fencing materials are specifically prohibited or regulated as follows:

- i. Barbed wire, razor wire, concertina wire or other hazardous construction or material except as permitted in (b) above;
- ii. Canvas, fabric or cloth fences, except electrified ribbon or mesh fences as permitted in (b) above. This does not prohibit installation of mesh privacy screening on a permitted fence, provided it does not render such fence in violation of the limits of solidity;
- iii. Electrically charged fences except as permitted in (b) above;
- iv. Temporary fences, such as snow or silt fences, except as the latter may be necessary during development or other approved land disturbance or to actively control snow or to enclose, corral or protect animals, crops or vegetation or temporarily restrict access whereas access would present a potential for property damage or personal injury, provided the same do not remain in place for more than 180 days consecutively or 180 days nonconsecutively in any 365 day period;
- v. Plastic slats or other inserts in chain link fences;

(j) Any fence, wall or similar structure which substantially cuts off light or air or which may cause a nuisance, dangerous condition or a substantial fire-fighting impediment is prohibited.

(k) Chain link or other wire fencing shall be installed such that the closed loop edge shall be at the top, and no part of such fencing shall be located within a front yard, including a fence running along or approximately parallel to a side line within a front yard.

(l) Swimming pool fences. Every private swimming pool shall have a fence enclosure which complies with International Building Code. No electric fence shall be installed to enclose a pool or within eight feet of a pool.

(m) Any fence or wall installed along a property boundary line shall be set back from the line a minimum of six inches.

(n) A fence installed along the top of a retaining wall shall be a minimum of three feet in height, or such height as required by the building code, whichever is greater. The total height of a retaining wall and the fence along the top thereof shall not exceed eight feet. In commercial zones, the height shall not exceed ten feet.

(o) The total height of a berm and a fence on top thereof shall not exceed eight feet from the average survey grade at the base of the berm.

(p) The provisions hereof shall not apply to fences or walls which legally existed or for which permits have been issued as of the effective date of this Ordinance, provided the owner can produce credible proof of the same. The same may be maintained and repaired, but should more than 50% of any fence or wall require replacement or be voluntarily replaced after the effective date hereof, the same must comply with the requirements herein.

SECTION III

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

SECTION IV

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION V

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

BOROUGH OF FRANKLIN



Darlene J. Tremont, CLERK



BY: John M. Sowden IV, MAYOR

DATED: November 24, 2020

NOTICE

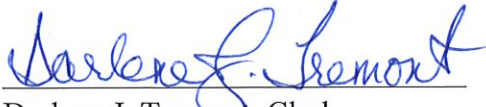
NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Borough of Franklin held on September 22, 2020, at 7:00 p.m. and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Borough Council to be held on November 24, at 7:00 p.m., or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 46 Main Street, Franklin, New Jersey 07416, at which time all persons interested may appear for or against the passage of said Ordinance.



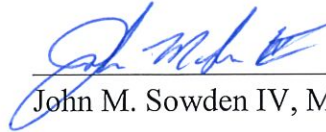
Darlene J. Tremont
Municipal Clerk

CERTIFICATION

I, Darlene J. Tremont, Clerk of the Borough of Franklin, do hereby certify that the Borough of Franklin Council duly adopted the foregoing Ordinance on the 24th day of November, 2020.



Darlene J. Tremont, Clerk
Borough of Franklin



John M. Sowden IV, Mayor

Introduced: September 22, 2020

Adopted: November 24, 2020

RECORD OF COUNCIL VOTES-FIRST READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA	X					X
JOSEPH LIMON	X					
JOHN POSTAS COUNCIL PRESIDENT	X					
STEPHEN SKELLENGER	X					
GILBERT SNYDER	X					
STEPHAN ZYDON, JR.	X				X	
MAYOR SOWDEN, IV (Tie Only)						

RECORD OF COUNCIL VOTES-SECOND READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA	X				X	
JOSEPH LIMON	X					
JOHN POSTAS COUNCIL PRESIDENT	X					
STEPHEN SKELLENGER	X					X
GILBERT SNYDER	X					
STEPHAN ZYDON, JR.				X		
MAYOR SOWDEN, IV (Tie Only)						

**BOROUGH OF FRANKLIN
LEGAL NOTICE**

ORDINANCE No. 12-2020

**AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, AND
STATE OF NEW JERSEY AMENDING SECTION 161-24 REGARDING FENCES**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Franklin, in the County of Sussex, State of New Jersey, held in the Borough Municipal Building, 46 Main Street, Franklin, NJ, on the 22nd day of September, 2020, and the same came up for final passage at a meeting of the said Borough Council on the 24th day of November, 2020, at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Franklin, County of Sussex and State of New Jersey.



Darlene J. Tremont, Municipal Clerk