

TOWNSHIP OF UPPER DEERFIELD

ORDINANCE 867

**ORDINANCE ADDING NEW TERMS AND DEFINITIONS TO SECTION 405-3
REPEALING AND REPLACING SECTION 405-24 FENCES, WALL & HEDGES
REVISING SECTION 405-109 ZONING PERMITS
OF THE CODE OF THE TOWNSHIP OF UPPER DEERFIELD**

WHEREAS, the Code of the Township of Upper Deerfield in Section 405-3 provides for terms and definitions; and Section 405-24 contains regulations for Fences, Walls and Hedges, and

WHEREAS, the Township Committee of the Township of Upper Deerfield desires to modify these sections of the code.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Upper Deerfield that Section 405-3 of the Code of the Township of Upper Deerfield be amended, and Section 405-24 be repealed and replaced as follows:

Section 1.

Section 405-3 Terms Defined is amended as follows.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land. "Fence" as used herein shall be synonymous with "wall," and not include shrubs, trees Hedgerows as defined herein, or other natural growth.

OPEN FENCE – A fence including gates which is less than fifty (50) percent opaque (solid) when viewed perpendicularly to its horizontal surface.

WIRE FENCE – A fence whose principal material is wire. This includes but is not limited to chain link fences.

HEDGEROW - Any clustering or configuration of plant material as a continuous border along property lines. "Hedgerow" shall not include interior landscaping.

Section 2.

Section 405-24 Fences, Walls and Hedges is repealed in its entirety and replaced with the following:

A. Purpose and Applicability.

(1) The purpose of this section is to provide standards for regulating fences and hedgerows.

- (2) These regulations shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth subject to the appropriate approvals set forth in the Uniform Construction Code.
- (3) These regulations shall not be applied to a “Farm” as defined in this Ordinance.
- (4) The construction of a new fence, or reconstruction/repair involving fifty (50) percent or greater of an existing fence, shall comply with the standards of this ordinance.

B. General Provisions Applicable to all Zoning Districts.

- (1) No fence shall be constructed unless a fence construction permit, if required, is issued by the Construction Code Official predicated upon the Zoning Officer’s review and approval of a Zoning Permit demonstrating compliance with the provisions of this Ordinance. If no construction permit is required under the Uniform Construction Code, then a Fence Permit issued by the Zoning Officer shall be required.
- (2) All fences shall be erected within the owner's property lines subject to the setbacks set forth herein.
- (3) All fences shall be constructed in accordance with all applicable sections of the Uniform Construction Code. In the event of any conflict between the provisions of this Ordinance and the Uniform Construction Code, the more restrictive provision shall apply.
- (4) No fence shall encroach onto a public right-of-way or easement, interfere with any utility line, or obstruct any legally required ingress or egress point.
- (5) No fence shall create a potential public hazard.
- (6) All fences shall be owner-maintained in safe, sound and upright condition on secure foundations.
- (7) Reconstruction, relocation or alteration of existing Fences shall conform to the standards of this Ordinance.
- (8) All fences shall comply with section 405-62A (39) of the Upper Deerfield Township Land Use Ordinance.
- (9) All fences and walls shall be constructed so the finished side faces outward toward adjacent properties and the public right-of-way.
- (10) Fences located in the front yard running parallel to any road or street shall be setback a minimum of ten (10) feet from the right-of-way, or four (4) feet from the interior edge of sidewalk, whichever distance is greater.
- (11) The following fences and fencing materials are specifically prohibited: razor-wire, canvas, cloth and barbed wire; except that commercial and industrial uses may use fences topped by barbed wire.

- (12) All fences shall be constructed in a manner which shall not be dangerous to persons or animals.
- (13) All fences shall be permanent construction and shall withstand a wind load of fifteen (15) pounds per square foot.
- (14) A fence may be located in any required yard, provided the fence is aligned parallel to the adjacent property line.
- (15) Hedgerows shall be planted at a distance from the adjoining property equal to one-half ($\frac{1}{2}$) the full-growth diameter of the plant species or material used in said hedges plus two (2) additional feet so as to prevent overhang or growth onto adjoining properties. All hedges shall be kept neatly trimmed so as to prevent overhang or intrusion onto adjoining properties, sidewalks or public rights-of-way. Hedgerows in front yards parallel to any public right-of-way shall be planted so that the full-growth diameter does not encroach into the setbacks set forth in Section 405-24B(10).

(16) Hedgerow plantings shall not include bamboo nor any of the plants listed in “Appendix to Policy Directive 2004-02 Invasive Nonindigenous Plant Species” found on The Native Plant Society of New Jersey website and here: https://npsnj.org/wp-content/uploads/2023/01/invasive_plant_list.pdf and subject to the provisions of Ordinance 865.

C. Maximum Fence Height in Residential Zones.

- (1) Front yard: two-and-one-half (2.5) feet; an Open Fence may be four (4) feet in height.
- (2) Rear Yard and Side Yards: six (6) feet.
- (3) Tennis courts: ten (10) feet, open-wire type.
- (4) Swimming pools: (Refer to Section 405-32 of the Township Code).

D. Maximum Fence Height in Business and Industrial Zones: eight (8) feet.

E. Hedgerow Height Restrictions. When located in front yards: four (4) feet in residential zones and eight (8) feet in any business or industrial zone. When located in rear yards: no height limitation.

F. Maximum Open Fence Height on Public Property. Ten (10) feet.

G. Enforcement.

- (1) If the Zoning Officer, upon report and inspection, finds that any Fence or portion thereof is not maintained as specified herein, the Officer shall notify the owner in writing, state his findings and the reasons for said findings, and he shall order such Fence or portion repaired or removed within 30 days of the notice.

(2) If after notice the Fence is not repaired or removed within the time given, the owner shall be subject to the provisions of Section 405-113 of the Township Code regarding violations and penalties.

H. Zoning Permit. No person shall hereafter erect, locate or alter any fence or hedgerow as regulated by this section without first obtaining a Zoning Permit therefor from the Zoning Officer as required by Section 405-109 of the Township Code.

Section 3.

Section 405-109 Zoning Permits is amended as follows:

§ 405-109 Zoning permits.

[Amended 12-30-2009 by Ord. No. 649; 3-18-2021 by Ord. No. 824]

A. No person shall hereafter erect, locate or alter any building or portion thereof or begin or change the use of any land without first obtaining a zoning permit therefor from the Zoning Officer. No zoning permit shall be issued except in conformance with the provisions of this chapter or, where authorized, upon written order of the Planning Board or Township Committee.

B. Application for zoning permits. All requests for zoning permits shall be made in writing to the Zoning Officer on forms supplied by the Zoning Officer and shall be signed by the owner or his authorized agent. The applicant shall include a description of the use or intended use or uses of the building and/or land.

C. Survey, plot plan, or lot line determination. The survey and lot line determination shall be prepared by a NJ Professional Land Surveyor.

(1) Each application shall be accompanied by a lot line determination, an updated survey (not more than two years old), or a legible plot plan drawn to scale, including the following:

(a) Existing and proposed buildings and structures with their dimensions, site improvements and open land uses and their exact relation to all lot and street lines.

(b) Location of existing well and septic system.

(c) Location and dimension of any easements.

(d) Location of any waterways or wetlands.

(e) Percentage of existing and proposed lot coverage.

(2) For farm and "rural residence" applications wherein the farm is an existing and continuing enterprise at the time of application, the plot plan shall only be required to show to scale the size and location of all new construction in relationship to existing structures, and to indicate the distances from the nearest lot line(s) rather than of the entire tract.

(3) For permits involving the reconstruction or repair of at least 50% of an existing fence, the applicant may submit a current lot line determination prepared, signed and sealed by a NJ Professional Land Surveyor.

D. Accompanying the application also must be a written statement giving satisfactory evidence to the effect that the lines of the street boundaries have been accurately located and staked on the ground and that the said application is intended to comply with all the provisions of this chapter, or a variance therefrom duly authorized by a municipal agency pursuant to N.J.S.A. 40:55D-60 and 40:55D-70.

E. Except as provided otherwise in § **405-70**, Conditional uses, and § **405-69**, Subdivision and site plan review, a zoning permit shall be granted or refused by the Zoning Officer within 10 days after he/she shall have received an application complete in all respects, together with any required fee.

Section 4.

All ordinances or portions thereof inconsistent with this Ordinance are repealed to the extent of such inconsistency.

Section 5.

If any portion of this Ordinance is declared to be invalid by a Court of competent jurisdiction, it shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect.

Section 6.

This Ordinance shall take effect in the time and manner prescribed by law.

James Crilley, Chairman

Adopted: October 3, 2024

Attested: Roy J. Spoltore, Township Clerk

First Reading: September 19, 2024

Publication: September 25, 2024

Publication of Final Adoption: October 11, 2024