

ORDINANCE #2013-3089

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF MIDDLETOWN, COUNTY OF MONMOUTH
AMENDING CHAPTER 16, PLANNING AND DEVELOPMENT REGULATIONS**

WHEREAS, Middletown Township's Planning and Development regulations include standards that control the location, scale and type of land uses within the Township; and

WHEREAS, on October 27, 2004, the Middletown Township Planning Board adopted a Comprehensive Master Plan, and said Master Plan was reaffirmed and readopted by the Planning Board on October 1, 2008, and thereafter updated on July 15, 2009 and September 22, 2011; and

WHEREAS, the Middletown Township Committee routinely reviews various zoning standards and regulations in order to properly address emerging land use issues and to further the purpose and intent of the Township's Planning and Development Regulations and Zoning Ordinance; and

WHEREAS, in accordance section 40:55D-62 of the Municipal Land Use Law, the Middletown Township Committee is charged with adopting zoning standards ordinances relating to the nature and extent of uses of the land and of buildings and structures thereon in order to protect the general health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED that Chapter 16 of the Township of Middletown Planning and Development Regulations are hereby amended as follows (additional regulations or amended text is indicated in **bold underline type**; deleted text is shown in ~~strikethrough type~~):

SECTION 1:

16-703 RESTORATION.

If any nonconforming structure is more than partially destroyed by fire, flood, earthquake, wind or other natural occurrence then said structure can only be rebuilt in conformance with this Chapter, except as follows:

- A. Where the structure contained a permitted use at the time of destruction, and will continue to do so after it is rebuilt, and
- B. Where the structure would not require site plan approval pursuant to this Chapter, and
- C. Where the structure will be rebuilt on or within the existing building footprint, ~~and will not exceed height of the structure prior to destruction.~~
- D. For the purposes of this section, an individual building in a multi-building RGA or RTH development shall not require site plan approval to be rebuilt as long as subsection C. above is satisfied.

SECTION 2:

16-708 PERMITTED MODIFICATIONS AND EXCEPTIONS.

- E. The maximum percent of building coverage and lot coverage for a detached single-family dwelling on a nonconforming lot may be increased provided the resultant building coverage and lot coverage complies with the coverage limits in the most restrictive single-family residence zone to which the area of the nonconforming lot conforms. In no case shall building coverage exceed thirty-five (35%) percent or lot coverage exceed forty (40%) percent.**

SECTION 3:

16-616 FENCES, WALLS AND HEDGES

A Fences, hereafter erected, altered or reconstructed in all residential zones in the Township shall not exceed six (6') feet in height above ground level, **and**

~~B.~~ Fences erected, altered or reconstructed in all nonresidential zones in the Township shall not exceed eight (8') feet in height above-ground level, except as follows:

1. Fences, which are not open fences as defined in this Chapter, located in a required front, street side or street rear yard, shall not exceed thirty-six (36") inches in height.
2. In any business or industrial zone, open wire fences not exceeding eight (8') feet in height may be erected in the rear or side yard areas and behind the required front street side or street rear yard setback line.
3. On park, recreation or school properties, open wire fences not exceeding eight (8') feet in height may be erected in the rear or side yard areas and behind the building setback line.
4. Fences specifically required by other provisions of this Chapter and other municipal and State regulations.

~~C.~~ **B.** All fences shall be set back a minimum of three (3') feet from the top of a structural retaining wall. Any fence proximate to or associated with a structural retaining wall shall be set back at least fifteen (15') feet from a property line.

~~D.~~ **C.** Barbed wire, razor wire, canvas or cloth fence and fencing construction are prohibited in all zones in the Township. The ban on barbed wire shall not apply to fencing located on and necessary to the operation of a farm or to barbed wire strands placed atop security fencing six (6') feet high or more around a conforming commercial or industrial use, provided that the fencing conforms to all other standards and that no barbed wire fencing be permitted in the front yard of the nonfarm uses.

~~E.~~ **D.** All supporting members of a fence shall be located on the inside of the fence, and if erected along or adjacent to a property line, the supporting members of the fence shall face the principal portion of the tract of land of the property upon which the fence is erected.

~~F.~~ **E.** All fences must also comply with the provisions of Chapter 8 of the Code of the Township of Middletown except where in conflict with the technical provisions of this section.

~~G.~~ **F.** Tennis court fences, baseball and softball backstops and spectator protective fencing are exempt from the requirements of this section provided they are not located within any required yard area. Located outside of any required yard area, they are subject to the height limitations of the particular zone district.

~~H.~~ **G.** Fences which are painted shall be painted in only one (1) color, harmonious with the surrounding area. Multicolored fences are prohibited.

~~I.~~ **H.** Fences shall be erected in a manner so as to permit the flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding.

1. In the M-C Marine Commercial Zone, open fences of a height of twelve (12') feet or less are permitted within the front setback. Such fences shall be used for recreational purposes only and shall be located no closer than ten (10') feet to the front lot line.

SECTION 4:

Should any section or provision within this ordinance be found to be illegal or unconstitutional by any court of competent jurisdiction, such finding shall have no effect on any of the remaining sections or provisions.

BE IT FURTHER ORDAINED, that this ordinance was adopted by the following vote:

PASSED ON FIRST READING: May 20, 2013

PASSED AND APPROVED: June 17, 2013


MAYOR GERARD P. SCHARFENGERGER

ATTEST:


HEIDI R. BRUNT, TOWNSHIP CLERK

