

TOWNSHIP OF PEQUANNOCK

ORDINANCE NO. 2014-13

ORDINANCE AMENDING CHAPTER 189 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF PEQUANNOCK AND AMENDING THE REGULATIONS CONCERNING DECKS, GENERATORS, AND FENCES

BE IT ORDAINED by the Township Council of the Township of Pequannock, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter 189, Section 189.07.020 entitled "Regulations pertaining to residential districts," shall be amended by the following amendment to Subsection P, "Fences," which shall read in its entirety as follows:

P. Fences.

(1) The following fence height and setback regulations apply in all residential zones:

(A) FRONT YARD.

For purposes of these fence requirements for lots with two or more front yards, 189.070.20(2)(a), the established front yard of a residential structure shall be defined as the space between the street and the front/main entrance of the principal building. In addition, the following standards shall apply:

- (a) Fences located in the established front yard shall have a maximum height of three (3) feet, a minimum of 50% of the fence open to the air; and a minimum setback of five (5) feet from the property line.
- (b) Fences located in the secondary front yard shall have a maximum height of four (4) feet; shall have a minimum setback of five (5) feet from the property line; and may be solid in construction.
- (c) Fences in excess of four (4) feet but not to exceed six (6) feet in height shall be permitted in the secondary front yard provided the fence has a minimum setback of the required front yard setback for the zone in which the site is located OR the fence has a setback at the prevailing building setback and runs parallel to the street right-of-way.
- (d) As of the date of passage of this amendment, fences that have received formal approval either from the Building Department or the appropriate Township Board, that are in excess of four (4) feet, but not greater than six (6) feet, are permitted. Replacement of said fences are permitted, at their present location or at a five (5) foot setback from the property line, whichever is greater. All other fence requirements are applicable.

(B) REAR OR SIDE YARD.

Fences with a maximum height of six (6) feet shall be permitted in all residential zones. No setback for fences shall be required, provided that any fence, which is installed, shall be entirely on the property of the party who installs the fence and must be maintainable from that property.

(2) **MEASUREMENT OF FENCE HEIGHT.**

In determining the height of fences for the purpose of compliance, the following shall apply:

- (a) For fences that are not uniform in height along the top of the fence, the height shall be measured to the highest point of the fence, except as provide otherwise below.
- (b) Notwithstanding the maximum height limitations applicable to fences above, fence posts may exceed the maximum permitted fence height by up to one (1) foot.
- (c) For fences located on sloping ground, the height shall be measured from the grade directly below the point of measurement.
- (d) Fence height shall be measured from normal grade. Normal grade shall be construed to be the newly established grade after construction,

exclusive of any filling, beaming, mounding, excavating or curbing which alters the grade at the base of the fence from the grade in the general vicinity of the fence.

(3) FENCE ORIENTATION.

Fences shall be constructed in such a manner that the dressed side of the fence, where applicable, shall face the adjacent property or the public right of way excluding railroad property. All supports for the fence shall be on the interior of the fence and property. This provision shall not preclude the construction and maintenance of a shadowbox type fence, provided that the dressed side of the fence material shall face the adjacent property or public right of way and shall be of the same texture, material, and color.

(4) FENCE COMPOSITION.

No electrified fences or other fences consisting of or incorporating similar hazards shall be permitted in a residential zone. Barbed wire fences are permissible when used to contain horses and cattle, as regulated by this chapter, on the property.

SECTION 2. Chapter 189, Section 189.07.020 entitled "Regulations pertaining to residential districts," shall be amended by the following amendment to Subsection T, which shall now be entitled "Central air conditioning equipment/unit and generators," which shall read in its entirety as follows:

T. Central air conditioning equipment/unit and generators.

- (1) Central air conditioning equipment/unit and generators shall be permitted in the front, side and rear yards.
- (2) Such air conditioning equipment and generators shall not extend more than four (4') feet from the building foundation and meet the front and side yard setback requirements of the District in which the site is located.
- (3) Such equipment/unit and/or generator shall be properly screened with an evergreen hedge, at a minimum, equal to the height of the proposed equipment/unit and/or generator and shall consist of two staggered rows of evergreen shrubs,

SECTION 3. Chapter 189, Section 189.07.020 entitled "Regulations pertaining to residential districts," shall be amended by the following additional subsection W which shall read in its entirety as follows:

W. Decks.

- (1) Decks will not be counted toward building coverage if the following conditions are met:
 - (a) The deck is less than or equal to six (6') feet in height as measured from its lowest corner;
 - (b) The deck area is less than or equal to fifteen (15%) percent of the footprint of the residence or 400 square feet whichever is less and does not conflict with (a) above.
 - (c) Any deck that is greater than six (6') feet in height shall be counted toward building coverage.
 - (d) The area of a deck that is greater than fifteen (15%) percent or 400 square feet and does not meet the requirements of (a) above shall be counted toward building coverage

SECTION 4. Chapter 189, Section 189.010.050 entitled "Definitions," shall be amended to read in its entirety as follows:

Subsection 189.01.050 Definitions and word usage.

- A. Words used in the present tense include the future; the singular includes the plural; and "person" includes an association, partnership and corporation as well as an individual; the word "shall" is always mandatory; and the term "occupied or used," as applied to any building, shall be construed to be followed by the words "01' intended, arranged or designed to be occupied or used."
- B. Unless otherwise expressly stated, the following words and phrases shall be

construed throughout this chapter to have the meanings herein indicated.

ACCESSORY BUILDING OR USE - A building or use subordinate in area, extent and purpose to the principal building or use 011 a lot and used for purposes customarily incidental to those of the principal building.

ADMINISTRATIVE OFFICER - The Zoning Officer or personnel as identified by Ordinance.

ADULT BOOK AND/OR GIFT STORE - An establishment having as a substantial or significant portion of its stock-in-trade gifts, devices, books, magazines and other periodicals which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereafter defined, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT MINI-MOTION-PICTURE THEATER - An enclosed building with a capacity for less than fifty (50) persons used for showing material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereafter defined, for observations by patrons therein.

ADULT MOTION-PICTURE THEATER - An enclosed building with a capacity of fifty (50) or more persons used for showing material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as hereafter defined, for observations by patrons therein.

AMUSEMENT PARLOR OR ARCADE - Any place or premises where any machine or device is located, the primary purpose of which is to make said machines available to the public. If more than ten percent (10%) of the floor area devoted to the public is utilized for machines or there are more than eight (8) machines, whichever is more restrictive, the use or premises shall be considered an "amusement parlor."

BASEMENT (CELLAR) - The portion of a building that is partly below the average finished grade of the ground adjoining the building.

BIG BOX RETAIL - Large industrial style buildings of over 75,000 square feet used for wholesale and retail purposes with interior space greater than one and one half stories to allow for the palletizing and vertical bulk stacking of merchandise.

BOARDINGHOUSE - A dwelling in which rooms without cooking facilities may be leased to persons, principally non-transients.

BUILDING - Any temporary or permanent structure having a roof supported by columns, piers or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind. Building shall also be any unroofed platform. Building shall also include receiving and transmitting radio, television and other communications equipment antennas, except for such antennas installed on the roof of a building and extending no more than fifteen (15) feet above the highest level of the roof of such building.

BUILDING, TEMPORARY - Any structure which is not intended to be used for more than four (4) consecutive months of any calendar year and which is completely disassembled subsequent to each period of use.

CLINIC - Place used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of psychiatric counseling or medical, dental or surgical attention, but who are not provided with board or room or kept overnight on the premises.

CLUB or LODGE - A corporation, association or group of persons formed for social, educational or recreational purposes, not for profit.

COMMUNITY CENTER - Any building or buildings and the lot upon which they are located which is publicly owned or operated to serve the community in which it is located. Such a use may include indoor and outdoor recreational facilities, public meeting rooms, libraries and rooms for the dispensing of counseling, guidance or clinical services, but may not include residential uses.

COMPLETE APPLICATION - An application form, completed as specified by ordinance and the rules and regulations of the Board, and accompanying documents required by ordinance for approval of the application for development, including but not limited to a site plan.

COURT, INNER - An open space enclosed on all sides by exterior walls of a building.

COURT, OUTER - An open space enclosed on three (3) sides by exterior walls of a building. Its length shall be measured as the horizontal distance between the exit opening on a street or yard and the end opposite such street or yard.

COVERAGE, BUILDING - The area covered by all buildings on a lot, expressed as a percentage of the total lot area.

COVERAGE BY IMPERVIOUS SURFACES - The portion of a lot covered by all buildings, asphalt or concrete paving, paver stone, tile or block, sidewalks, swimming pool, porches and exterior stairs or other impervious surfaces which prevent water absorption to the ground.

DECK - An outdoor unroofed platform supported by columns, piers or walls or other supports that allow water to flow through and into the ground below.

DRIVE-IN/DRIVE THROUGH RESTAURANT - A building or portion thereof where food or beverage are sold in a form ready for consumption and where a portion of the consumption takes place outside the building, as for example a motor vehicle Oil-site.

DRIVE-IN ESTABLISHMENT - Premises constructed to dispense services to motorists without having to leave the vehicle and providing curb and/or window counter service.

DWELLING - A structure 01' portion of a structure on a lot which is arranged or used or intended to be used for one (1) or more individuals living together as a single housekeeping unit. Every dwelling unit shall have, at a minimum, cooking, living, sanitary and sleeping facilities.

DWELLING, DETACHED - A building designed for and occupied by a single household which has no party walls in common with any other structure.

DWELLING, MULTIFAMILY - A building or portion thereof containing three (3) or more dwelling units, including condominium or cooperative ownership.

DWELLING, PATIO HOME - A single-family dwelling unit arranged on a lot of at least the minimum required size and dimension with no side yard on one (1) side of the dwelling and in which the entire real' yard is fenced, walled or otherwise screened.

DWELLING, SEMIDETACHED - A one-family dwelling separated by a party wall from another contiguous dwelling.

DWELLING, TOWNHOUSE - A one-family dwelling which has two (2) party walls in common with contiguous buildings or one (1) party wall in the case of the end building of a group of "townhouse dwellings,"

DWELLING, TWO-FAMILY DETACHED - A structure on one (1) lot which contains two (2) separate and complete dwellings with common or separate entrances.

ELEEMOSYNARY USE - Use by a charitable nonprofit organization.

ENGINEER - The duly appointed Engineer of the Township of Pequannock.

FAST-FOOD RESTAURANT - An establishment whose principal business is the sale of pre-prepared or rapidly prepared food in a ready-to-consume state for the consumption within the building or off-premises.

FENCE - A barrier greater than two and one-half (2 1/2) feet in height made of posts and wires, boards or other similar material.

FLOOR AREA, AGGREGATE - The sum of the gross horizontal areas of the several floors of the building or buildings on a lot, measures from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings, excluding roof areas, terraces or balconies, cellar and basement areas used only for storage or for the operation and maintenance of the building, and further excluding any areas devoted only to accessory off-street parking 01' loading.

FLOOR AREA RATIO - The aggregate floor area, in square feet, of all buildings on a lot divided by the square-foot area of such lot.

FRONT YARD SETBACK - The area between the line parallel to the street line at a distance therefrom equal to the depth of the front yard required for the district in which the lot is located and the street line, which area shall be open and unoccupied,

GARAGE - A building accessory to the principal use on a lot for the storage of motor vehicles, either for or without compensation.

GRADE PLANE - The reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest

points within the area between the building and the lot line or where the lot line is more than six (6) feet from the building between the building and a point six (6) feet from the building.

HEIGHT OF BUILDING - The vertical distance of a structure derived from the average finished grade at the foundation corners of the building or structure, including additional measurements at the center of all exterior side, front and rear building walls, to the highest point of the building or structure, excluding a chimney or other similar structures.

HOSPITAL - An institution providing health services, and medical or surgical care of the sick or injured, both as inpatients and as outpatients, including, as an integral part of the institution, such related facilities as laboratories, training facilities, central service facilities and staff offices.

HOTEL - A building or part thereof which contains forty-eight (48) or more rented rooms without cooking facilities, served by a common entrance.

JUNK YARD - A lot, land or structure or part thereof used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or other scrap or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. An automobile "junkyard" shall consist of the storage of three (3) or more unlicensed automobiles for the purpose of salvaging used parts therefrom or reducing said automobile to scrap, whether or not said use is accessory to a permitted use.

LOADING SPACE - A portion of a lot contiguous to a building which is set aside for the parking of vehicles while materials or goods are being loaded or unloaded.

LOT - Any parcel of land which is occupied or intended to be occupied by a building or buildings and its accessory buildings, together with the required open spaces and accessory uses appurtenant to such building or group of buildings.

LOT, CORNER - A lot abutting on two (2) or more intersecting streets. A lot abutting a curved street shall be deemed to be a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of one hundred thirty-five degrees (135 degrees) or less.

LOT DEPTH - The average horizontal distance between front and rear lot lines, measured in the general direction of its side lot lines. In the case of an irregularly shaped lot which comes to a point in the rear, the "lot depth" shall be the distance of the perpendicular line extending from the center of the rear lot line to the street.

LOT FRONTAGE - Shall be the same as lot width except in the case of flag lots where it shall be a minimum of fifty (50) feet.

LOT, INTERIOR - Any lot which is not a corner lot.

LOT LINE - Any boundary of a lot.

LOT LINE, FRONT - See definition of "street line."

LOT LINE, REAR - The lot line generally opposite to the street line; if the rear lot line is less than ten (10) feet in length or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be an imaginary line parallel to the street line not less than ten (10) feet long lying furthest from the street line.

LOT LINE, SIDE - The lot lines extending from the street line to the rear lot line.

LOT, THROUGH - A lot having street frontage both in front and to the rear.

LOT WIDTH - The lot width shall be measured at the front yard setback line.

MACHINE or DEVICE - Any coin-operated automatic amusement game, including but not to the exclusion of other devices known as "roulette," "baseball," "pinball," "shooting games," "video-type games or machines" or similar devices that use a display screen which, upon the insertion of a coin, slug, token, plate, disc or key into a slot, crevice or other opening, will commence operation, which is maintained or used within a public or quasi-public place. Each "machine" or "device" shall have an obstructed perimeter zone or distance of five (5) feet around the sides and front of said "machine" or "device." Nothing herein contained shall be construed to refer to vending machines for cigarettes, foods, confections, music or merchandise.

MASTER PLAN - The document or documents, as amended, which have been adopted by the Pequannock Township Planning Board as the "Master Plan" of the Township of Pequannock.

MOBILE HOMES(S) - A structure transportable in one (1) or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

MOTEL - A building or group of buildings containing rented rooms which have direct outside access (the term "outside access" to include access to open or screened porches), including establishments designated as "motor inn," "tourist court," "tourist cabins" or "roadside hotel."

NONCONFORMING USE - A building or use, or both, which is lawfully existed prior to the enactment of a Zoning Ordinance or any amendment thereto and which is continued after the effective date thereof although it does not conform to the use regulations of the district in which it is located.

NURSING HOME - A facility operated for the purpose of providing therein lodging, board and nursing care to sick, invalid, infirm, disabled or convalescent persons for compensation.

OUTDOOR DISPLAY - The use of any portion of a lot outside the enclosed portions of a structure for purposes of display, sales or storage.

PARKING SPACE - An open space or a garage, on a lot, used for parking of motor vehicles and to which there is access from a street or aisle.

PLANNER - The Township Planner of the Township of Pequannock.

PLANNING BOARD - The duly and legally appointed Planning Board of the Township of Pequannock.

PRINCIPAL BUILDING - A building in which is conducted the main or principal use of the lot on which the building is located.

PROFESSION or PROFESSIONAL OCCUPATION - Those businesses and offices which are licensed by the State of New Jersey.

RESTAURANT - A building or portion thereof where food is commercially sold for on-premises consumption to patrons seated at tables or counters.

RETAIL FOOD ESTABLISHMENT - A building for which food or drink is offered for retail sale for consumption off-premises,

SERVICE STATION - A premises used for the retail sale of gasoline and other fuels and oil and other lubricants for the operation of motor vehicles and accessory uses.

SETBACK OR YARD REQUIREMENTS - For the purpose of measuring the yard dimension, the location of the building wall closest to the property line shall constitute the location of the building. No architectural projections, such as a roof overhang or bay window, shall extend more than one and one-half (1-1/2) feet beyond the required setback.

SINGLE AND SEPARATE OWNERSHIP - The ownership of a lot by one (1) or more persons, partnerships or corporations, which ownership is separate and distinct from that of any adjoining lot.

SITE PLAN - Plan for use and/or development of any lot, parcel or piece of land other than for a single one-family or single two-family residence and uses accessory thereto, prepared in accordance with the provisions of Article X of this chapter.

SPECIFIED ANATOMICAL AREAS:

- (1) Less than completely and opaquely covered human genitals, public region, buttocks and female breasts below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, public region, buttock or female breast.

STORY - That part of any building, not including basements, comprised between the level of one (1) finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STORY, HALF - Any space partially within the roof framing, where the clear height of not more than fifty percent (50%) of such space between the top of the floor beams and the structural ceiling level is seven (7) feet 01' more.

STREET - A street, improved to township standards, which is one (1) of the following: an existing township, county or state highway 01' street; a street shown on an approved subdivision final plat; or a street shown on the Official Map of the township.

STREET LINE - The subdividing line between the street and the lot, across which there is a permanent access to the lot.

STRUCTURE - See definition of "building."

YARD, FRONT - An open, unoccupied space on the same lot with the building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of that lot.

YARD, REAR - A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of any building. The depth of a "rear yard" shall be measured at right angles to the rear line of the lot or, if the lot is not rectangular, then in the general direction of its side lot lines.

YARD, SECONDARY FRONT - On a corner lot, the open unoccupied area facing the street that is not associated with the front or main entrance of the principal building. An open, unoccupied space on the same lot with the building, extending the full width of the lot and situated between the street line and the non-principal side of the building projected to the side lines of that lot.

YARD, SIDE - An open, unoccupied space between the side line of the lot and the nearest point of the building and extending from the front yard to the rear yard or, in absence of either of such yards, to the street or rear lot lines, as the case may be. The width of a "side yard" shall be measured at right angles to the side lines of the lot.

ZONING PERMIT - Shall mean a document signed by the Administrative Officer (1) which is required by Ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of structure or building which complies with the provision of the Municipal Ordinance or variance therefore duly authorized by a Municipal Agency pursuant to N.J.S.A. 40:550-60 and 40:550-70.

ZONING OFFICER - The duly appointed Zoning Officer of the Township of Pequannock.

SECTION 5. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

SECTION 6. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 7. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Introduced: May 27, 2014

Adopted: June 24, 2014



Joseph J. Delaney, Jr., Township Clerk



Melissa Florance-Lynch, Mayor