

Ordinance 25-09-01

Introduced: September 8, 2025

Adopted:

AN ACT TO CREATE CHAPTER 48 IN THE TOWN OF MIDDLETOWN CODE OF ORDINANCES TO INCLUDE FENCE PERMITS AND INSPECTIONS

BE IT ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MIDDLETOWN (a majority of the members elected thereto concurring therein):

Section 1. That the Town of Middletown, Delaware, Code of ordinances is hereby amended by creating Chapter 48 and placing therein the following:

“Chapter 48. REGULATION OF PERIMETER FENCES

A. Purpose

To establish consistent and enforceable standards for the placement and type of fences throughout the Town of Middletown, while preserving public safety, aesthetics, and access to utilities.

B. Definitions

- **Barrier** – A fence, wall, building wall, or combination thereof that completely surrounds a pool, spa, or hot tub and obstructs access to it.
- **Decorative Cutouts** – Openings incorporated into a fence panel design that may impact the allowable open space measurements under open-style or pool barrier requirements.
- **Easement** – A designated area on private property that grants access or use rights to utilities, drainage, or the public, where permanent structures like fences are not permitted.
- **Fence** – A man-made barrier, 2 feet or more in height, constructed to enclose, separate, or screen areas of land.
- **Front Yard** – The area between the front property line and the principal structure’s front wall, extending the full width of the lot.
- **Grade (Adjacent Grade)** – The ground level measured on the side of the fence or barrier facing away from the enclosed area, used to determine fence or barrier height.
- **Open Area Percentage** – The ratio of open space to total surface area for purposes of determining compliance with open-style fence requirements.
- **Open-Style Fence** – A fence with at least 50% open area allowing visibility, air, and light to pass through. Examples include picket, wrought iron, and split rail fences.
- **Pool/Spa** – Any structure intended for swimming, recreational bathing, or wading that contains water over 24 inches (610 mm) deep, including in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas.
- **Self-Closing Gate** – A gate that closes automatically after it has been opened.
- **Self-Latching Device** – A mechanical device or latch that secures a gate in the closed position and returns to the latched position when released without manual assistance.
- **Shared Fence** – A fence installed on or along a common property line between two properties, potentially benefiting both property owners.

- **Sight-Obscuring Fence** – A fence constructed so that visibility through it is substantially blocked from one side to the other.
- **Sight Triangle** – A clear area of visibility at intersections, typically 25 feet along each curb or property line, maintained to prevent visual obstructions.
- **Solid Fence** – A fence with less than 50% open space, typically made from solid panels such as vinyl, wood stockade, or privacy slats in chain link.
- **Temporary Fence** – A fence or barrier intended for short-term use during construction or special events, not to exceed the duration specified in the issued permit.

C. Permit Requirement and Inspection

1. A fence permit is required for all new, replacement, or relocated fences 2 feet in height or greater.
2. Fence permits are for placement only. No formal plan review is conducted.
3. Final inspection is required and must be called in by the applicant.
4. The inspection will verify compliance with the approved permit (location, height, material, parcel boundaries). It will not assess code accuracy.
5. Fences placed without a permit or inspection are subject to removal or enforcement action.

D. Fence Zoning Standards

The following zoning standards apply to fences within the Town of Middletown. Zone Type	Max Height (Rear/Side Yard)	Max Height (Front Yard)	Material Restrictions	Permit Required?
R-1A	6 feet	4 feet	No barbed/electric; no chain link in front yard	Yes
R-1B	6 feet	4 feet	No barbed/electric; no chain link in front yard	Yes
R-2	6 feet	4 feet	Front fences over 3' must be open-style; no chain link in front yard	Yes
R-3	6 feet	4 feet	Decorative fencing encouraged; no chain link in front yard	Yes

R-MH	6 feet	4 feet	No chain link in front yard	Yes
C-2	8 feet (rear)	4 feet	No barbed wire streetside; no chain link in front yard	Yes
C-3	8 feet	4 feet	Barbed wire above 6' allowed; no chain link in front yard	Yes
M-I	8 feet	4 feet	Chain link/barbed OK (rear/side); no chain link in front yard	Yes
AP	6 feet	4 feet	Agricultural fencing allowed; no chain link in front yard	Yes

Section 2. That the Town of Middletown, Delaware, Code of ordinances is hereby amended by deleting the following: 40-3 (B)(1)(a) Fences.

ADOPTED THIS _____ DAY OF _____, 2025.

(SEAL)

Kenneth L. Branner, Jr., MAYOR

ATTESTED TO BY:

WITNESS, TOWN OF MIDDLETOWN