

ORDINANCE 1217-2014 (Amended)

AN ORDINANCE CREATING A NEW SECTION OF THE LAND USE ORDINANCE OF THE BOROUGH OF MOUNTAINSIDE AND AMENDING SECTION 1003(u)(4) REGARDING CONSTRUCTION SITE SAFETY AND FENCING

WHEREAS, the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey, have determined that there is a need for certain fencing and other safety precautions at construction sites in the Borough; and

WHEREAS, in order to enact such construction site safety, it has been determined to create a new section of the Land Use Ordinance of the Borough; and

WHEREAS, in order to provide for such fencing and safety precautions, it has been determined that section 1003(u)(4) must be amended.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows:

Section 1.

A new section of the Code, to be entitled "Maintenance of Sites Under Construction," shall be added to the Land Use Ordinance of the Borough, as follows:

Definitions.

Contractor. The person or entity identified on the building permit issued by the Borough Construction Official as the contractor.

Construction Site. The real property identified in a building permit issued by the Borough Construction Official or the real property identified in the demolition permit, in the event no such permits have been issued, the property identified on the tax map of the Borough where demolition, excavation or construction is occurring.

Commencement of Work. Any activity by the Contractor, Owner, or agent of either, that begins the process of construction, demolition or excavation, which includes but is not limited to, the use and storage of machinery and supplies.

Excavation. The digging and/or removal of soil or other material forming the surface grade of a construction site so as to leave a hole and/or cavity in the surface grade.

Owner. The person or entity vested with the legal title to the Construction Site as recorded with the Borough Tax Assessor.

Securing the Construction Site.

At the discretion of the Construction Official, it shall be the responsibility of the Contractor working at new Construction Sites or the Owner of a Construction Site to secure the Construction Site with a six (6) foot chain link fence around the entire perimeter of the Construction Site, or in any other manner as the Construction Official in the reasonable exercise of his discretion may determine is necessary so as to protect the health and safety of the public. The perimeter fence shall be installed prior to the Commencement of Work and remain on the Construction Site until a Certificate of Occupancy is issued or until the Construction Official determines the Construction Site no longer requires fencing. In addition, the Construction Official shall have the authority to require that fencing of the type described herein be installed by the Contractor or Owner of such lesser portion of a given Construction Site, than the entire perimeter, as he shall determine based upon the extent of the demolition, excavation and/or construction.

Portable Toilets

In accordance with the National Standard Plumbing Code 311.1 of the State of

New Jersey, toilet facilities shall be provided at all construction sites for workers, and such facilities shall be maintained in a sanitary condition. In the event toilet facilities are not available, a portable toilet must be provided by the Owner or Contractor for the property. Construction worker toilet facilities of the non-sewer type shall conform to ANSIZ4.3.

Penalties.

Any violation of the provisions of this Article shall result in a fine of a minimum of up to \$100 per day. The Owner of any Construction Site and any Contractor operating, engaged to operate or otherwise working at a Construction Site shall be jointly and severally liable for any violation of the provision of this Article.

Enforcement.

The necessity for a fence or a portable toilet will be determined on a case-by-case basis, at the discretion of the Construction Official, based on the nature of the project, at the time of permit application.

The provisions of this chapter may be enforced by the Construction Official, Code Enforcement Officer, Zoning Officer or a police officer of the Borough of Mountainside.

Section 2.

Section 1003(u)(4) of the Borough Code be and hereby is amended and restated as follows:

1003(u)(4) Fencing shall not be allowed to extend beyond the rear front yard line of any building unless the fence is of an open type such as a split rail or chain-link, or any other fence at least 51% open, and such fence does not exceed four (4) feet in height. As indicated by Section 1003(j), a corner lot shall be considered as having two frontages. The provisions of this subsection shall not apply to lots under construction or lots where demolition of the approved structures on the lot has occurred, as determined by the Construction Official of the Borough. In such circumstances, six (6) foot high fencing shall be permitted around the perimeter of the lot or in such other location as the Construction Official in the reasonable exercise of their discretion may determine in order to protect the health and safety of the public in accordance with the provisions of the Borough Code of the Borough of Mountainside.

Section 3.

This ordinance shall take effect twenty days after the first publication hereof after final passage.