

**LOCAL LAW #2 OF 2019**

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**SECTION 1            DEFINITIONS**

As used in this chapter, the following terms shall have the meaning indicated:

- A.    FENCE: Any combination of material, regardless of composition, except for living fence or temporary enclosure for play pen use, that is erected or maintained for the purpose of enclosing a piece of land into distinct portions.
- B.    HEIGHT: The distance measured from the existing grade to the top of the fence.
- C.    LIVING FENCE: Any fence or hedge composed of live material.

**SECTION 2            APPROVAL REQUIRED**

No fence shall be erected without the approval of the Planning Board of Westville.

**SECTION 3            APPLICATION FOR PERMIT: TERM: RENEWAL**

Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application to the Planning Board, on a form provided by the Code Enforcement Officer. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence and the material proposed to be used therein, which must be in accordance with this chapter and any other pertinent local law regulating construction within the Town of Westville, and there shall be no charge for this permit. Upon approval of the Planning Board a permit shall be issued by the Code Enforcement Officer which will be in effect for a period of one (1) year from the date thereon. Said permit shall be available on the job during the progress of the work so it may be inspected by the Code Officer. In the event that any approved fence construction is not completed within one-year period, a new application and permit may be required.

**SECTION 4            HEIGHT LIMITATIONS**

No fence shall be more than six (6) feet in height. Any fence within twenty (20) feet from a public right-of-way or street shall not exceed three (3) feet in height, except for fences surrounding swimming pools and junkyards.

**SECTION 5            LOCATION RESTRICTIONS**

Any fence erected under this chapter shall be placed at least six inches from any property line. Any fence erected in a front yard shall be placed at least one (1) foot from the Town of Westville or State of New York right-of-way.

**SECTION 6**                    **MATERIAL AND COMPOSITION**

Any fence, wall or similar structure, as well as shrubbery, which unduly cuts off light or air, which may cause a nuisance, a fire hazard, a dangerous condition, an obstruction (to man or equipment) for combating fires or which may affect public safety is hereby prohibited.

**SECTION 7**                    **PROHIBITED FENCES**

The following fences and fencing material are specifically prohibited around residential residences:

- A. BARBED WIRE
- B. CANVAS FENCES
- C. CLOTH FENCES
- D. ELECTRICALLY CHARGED FENCES
- E. SOLAR CHARGED FENCES
- F. POULTRY FENCES
- G. TURKEY WIRE

**SECTION 8**                    **EXEMPTIONS**

Any fence eighteen (18) inches or less in height shall be exempt from the provisions of this law. Porch or deck railings and handrails appurtenant to stairs or ramps shall also be exempt. Temporary fences shall be exempt from setback and height requirements of this law, but shall be subject to all other requirements. The Planning Board shall specify an expiration date for a temporary fence permit, and shall be marked on such permit, which shall not exceed six (6) months from the date of approval and which may be renewed for one (1) additional six-month period on reapplication.

**SECTION 9**                    **CONSTRUCTION REQUIREMENTS**

Any fence, wood, stockade, chain link or other type of fence shall have the smooth side or finished side facing the outside of the property.

**SECTION 10**                    **RELATIONSHIP TO THE PROPERTY LINE**

All fences or walls must be erected a minimum of one (1) foot inside the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility at corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.

**SECTION 11**                    **VISIBILITY AT INTERSECTIONS: VIOLATIONS**

The Code Enforcement Officer shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants, trees or flowers or other vegetation, fence wall or other structure on private or public property whenever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections, driveways or curbs. Any person who shall refuse or neglect to comply within fifteen (15) days with the written direction from the Code Enforcement Officer shall be guilty of a violation of this Local Law, and shall be subject to its penalties.

**SECTION 12**                    **APPEALS**

The Zoning Board of Appeals is hereby empowered to review and decide appeals from any Order, requirement, decision, determination or opinion made by the Code Enforcement Officer, charged with the enforcement of the provisions of this Local Law. Such appeal shall be taken within thirty (30) days of the decision or action or action complained of or within thirty (30) days from the date the appellant is reasonably deemed to have notice of the decision or action complained of. The Zoning Board of Appeals shall have the power, in passing on appeals to it, to vary or modify the provisions of this Local Law, relating to the construction, placement or height of the fence, so that the spirit of this law shall be observed, public safety and welfare secured and substantial justice done by granting a variance upon showing of practical difficulty or unnecessary hardship. In granting such a variance, the Board may attach conditions to the variance as in its judgment it deems appropriate.

**SECTION 13**                    **FEES**

There shall be no set fees for the permit for any residential fence by the recommendation of the Westville Planning Board. Any applicant must check with the New York State Department of Transportation before starting any project if a permit is required and a fee charged.

**SECTION 14**                    **PENALTIES AND OFFENSES**

Any person, firm, or corporation or has his or her or its agent, servant, workman or employee, violating any of the provisions of this Local Law, shall be punishable by a fine not exceeding two hundred and fifty dollars (\$250.00). Each day continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

**SECTION 15**                    **EFFECTIVE DATE**

This Local Law will take effect immediately upon filing with the Secretary of State.