

TOWN OF JERUSALEM

Local Law Number B of 2012

REGULATION OF FENCES IN THE TOWN OF JERUSALEM

Be it enacted by the Town of Jerusalem as follows:

Section 1: The Code of the Town of Jerusalem is hereby amended by adding a new Chapter to be known as the "Fence Law of the Town of Jerusalem."

§ 2: The new Article shall read as set forth in Exhibit A attached hereto and made a part hereof.

§ 3: Effective Date.

This local law shall take effect upon being filed by the Secretary of State.

TOWN OF JERUSALEM

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Exhibit A

1. Title, scope, purpose

A. Title- This chapter shall be known as the Fence Law of the Town of Jerusalem, hereinafter referred to as "this Chapter."

B. Scope- This Chapter shall apply to all fences erected, placed or replaced within the Town of Jerusalem after it becomes law, with certain exceptions stated in this law.

C. Purpose-The purpose of these regulations is to prohibit the erection of fences and hedges in the Town of Jerusalem that obstruct a view from neighboring premises (particularly in the areas adjoining the lake) or that obstruct visibility on streets and highways in densely populated areas.

2. Definitions

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

A. **Agricultural Applications**

Shall have the same meaning as set forth in New York State Agriculture and Markets Law Article 1(2) & Article 25-AA (301).

B. **LAKEFRONT PROPERTY**

Property that is in actual contact with the lake.

C. **LIVING FENCE**

Any fence or hedge composed of live materials.

3. Materials and Maintenance:

A. Fences shall be constructed of wood, metal, masonry, PVC permanent fencing material, vinyl, chain link or stone.

B. They shall be well-maintained, neat and attractive in appearance, stained, or painted; safe, sound, and in an upright condition. Maintenance shall be the responsibility of the owner.

C. The following types of materials are not allowed: concrete barricade, solid metal (e.g., bus tops), canvas fence, cloth fences, barbed wire, razor wire, sheet metal, corrugated metal, fiberglass panels.

D. Fences shall have the smooth or finished side facing to the outside of the property of the owner installing the fence. Fence posts will be placed on the inside of the fence, unless the design of the fence makes both sides equivalent in appearance (such as, without limitation, split rail or PVC fences having posts placed between panels).

4. Location:

A. Fences facing a town road, county road, state road, or other road right-of-way shall be placed no closer than 10 feet from the fog line or edge of travelled portion of roadway.

TOWN OF JERUSALEM

B. No fence or hedge shall be erected or planted so as to encroach upon a public or private right-of-way.

C. Fences on the lake side of lakefront property shall set back 25 feet from the high water mark.

5. Height:

A. No fence or hedge on lakefront property and no fence or hedge between a residence and the road shall be over four feet high.

B. On lakefront properties, any new plantings, except trees, within 50 feet of the lake, such as but not limited to bushes and hedgerows, shall not obstruct any neighboring view and shall not exceed four feet in height.

C. No fence or hedge that is not on lakefront property shall be over six feet high.

D. Any type of fence or barrier built or grown located at any road intersection shall have a maximum height of three feet so that it will not block the view of traffic from either road. Living fences at road intersections shall be set back a distance of 10 feet from the property line and maintained at no more than three feet in height at all times.

E. A fence shall be set on and shall be measured from the existing ground. No buildup of ground elevation is permitted.

F. The height restrictions in Section 5 do not apply to fences or hedges used in agricultural operations or to other hedges, hedgerows, or trees forming windbreaks.

6. SPECIAL PROVISIONS:

A. **PARKS, PLAYGROUNDS AND RECREATIONAL FACILITIES:** A fence not exceeding six feet in height is permitted anywhere on any public playground, public park, or private school premises. However, this requirement shall not apply to chain link fences used for baseball/softball backstops or around tennis courts or recreational facilities, which may be of the customary height for those applications

B. **SWIMMING POOLS:** Outdoor swimming pools shall be enclosed by a protective fence in accordance with the requirements of the New York State Uniform Building and Fire Codes.

7. EXEMPTIONS: This chapter does not apply to and no permit shall be required for:

A. Fences used in connection with bona fide Agricultural Applications.

B. Non-boundary fences for the containment of pets, or for surrounding gardens or flowerbeds.

C. Snow Fences that are set up during the months of November through April.

D. Construction-erosion control fences.

8. PROCEDURE:

A. Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application for a permit to the Code Enforcement Officer on a form provided by the Code Enforcement Officer.

TOWN OF JERUSALEM

B. The application shall be accompanied by a site plan or survey showing the proposed location of any fence and the materials proposed to be used therein, which must be in accordance with this chapter and any other pertinent local law regulating construction within the Town, and shall be accompanied by a non-refundable fee in the amount established by the town board from time to time.

C. The application shall contain the owner's name, address, and signature and any other information reasonably required by the Code Enforcement Officer in order to enforce the terms of this Chapter:

D. Upon approval, the Code Enforcement Officer shall issue a permit for the construction of the fence, which will become void one year from the date thereon.

E. The permit shall be available on the job during the progress of the work so that it may be inspected by the Code Enforcement Officer.

9. SURVEYS:

- A. It is strongly recommended that, prior to the placement of a fence, the owner obtain a certified survey of the property in order to ensure that the fence will be located entirely within the owner's property boundaries.
- B. If no survey is provided, then the applicant must provide a notarized letter from each affected adjoining property owner indicating knowledge of planned fence and agreement as to the property line and location of fence and a site plan showing the proposed location of the fence may be requested prior to receiving a permit.
- C. The issuance of a Certificate of Compliance by the Code Enforcement Officer for the placement of a fence does not constitute verification that the fence is located within the property lines and the Town shall bear no responsibility if the fence is improperly located on adjacent property.

10. COMPLAINTS:

The Code Enforcement Officer shall review and investigate complaints that claim the existence of conditions or activities that fail to comply with this Chapter. The process for responding to a complaint shall include, but is not limited to, the following steps as deemed appropriate by the Code Enforcement Officer:

- A. The complaint shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer and shall contain the contact information and signature of the claimant:
- B. He shall perform an inspection of the condition and/or activities alleged to be in violation, and make a written report of the results of such inspection;
- C. If a violation is found to exist, he shall provide the Owner of the affected property with a Notice of the Violation and opportunity to abate, correct or cure the violation. He shall also have the authority to commence and prosecute a proceeding in the Town Court for the imposition of the penalties provided in this Chapter; and

TOWN OF JERUSALEM

D. If a violation that was found to exist is abated or corrected, he shall perform an inspection to ensure that the violation has been abated or corrected and shall prepare a final written report reflecting such abatement or correction, and file it with the complaint.

11. PENALTY

Any person, firm or corporation, or his or her or its agent, servant, workman or employee, violating any of the provisions of this chapter shall be punishable by a fine not exceeding \$250 and/or imprisonment for a term not exceeding 15 days. Each day's continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

12. VARIANCE

A. Should any owner of property affected by this Law suffer a hardship in the way of carrying out the strict letter of this Law, then the owner of that property may apply to the Board of Zoning Appeals of the Town in writing for a variance from strict compliance with this Law upon submission of proof of such hardship.

B. Procedure. The application for such a variance shall be treated in all respects as an application for an area variance from the zoning laws. The provisions of Article XV of chapter 160 that relate to Area Variances shall apply.

13. SEVERABILITY

If any portion of this law is found to be unconstitutional or repealed, then the remaining portion shall continue in effect.