

## Chapter 49

### FENCES

§ 49-1. Purpose.

§ 49-2. Definitions.

§ 49-3. Prohibitions regarding fences in general.

§ 49-4. Permits and approvals; setback.

§ 49-5. Manner of construction of fences.

§ 49-6. Variances.

§ 49-7. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 7-18-2001 by L.L. No. 2-2001; amended and readopted 12-12-2007 by L.L. No. 1-2007. Amendments noted where applicable.]

#### GENERAL REFERENCES

Property maintenance — See Ch. 75.

Zoning — See Ch. 100.

#### § 49-1. Purpose.

The purpose of this chapter is to establish a comprehensive fence law for the Village, and the provisions hereof shall apply notwithstanding any other provision of the Code of the Village of Tuxedo Park, including Chapter 100, Zoning, hereof, to the contrary. The duration of this chapter is limited to the earlier of January 31, 2009, or the effective date of a new local law. During this period the Board of Trustees and the Board of Architectural Review shall study the impacts and results thereof and any new technologies with regard to fences and wildlife control in general and make an informed decision as to continuing the terms hereof, modifying those terms or returning to the current legal arrangements or act in other appropriate way.

#### § 49-2. Definitions.

As used herein, the following terms shall have the following meaning:

FENCE — Shall have the same definition as set forth in the Village of Tuxedo Park Zoning Law contained in Chapter 100 hereof.

INTERIOR FENCE — Any fence other than a perimeter fence.

PERIMETER FENCE — Any fence temporarily or permanently erected on or along the boundary line of any lot, including a street line or lake shoreline.

PERSON — The record owner(s) of any lot upon which a fence is located, and any person, firm, corporation, partnership or other legal entity actually erecting a fence.

PRIMARY FENCE — An interior fence that is designed and intended to be permanent.

FENCE — Any interior fence that is designed and intended to be seasonal or temporary.

**§ 49-3. Prohibitions regarding fences in general.**

- A. Perimeter fences are prohibited in the Village. No person shall erect or cause to be erected a perimeter fence of any kind in the Village.
- B. No fence of any kind shall be electrified or constructed of hazardous material designated as such by resolution of the Board of Trustees.

**§ 49-4. Permits and approvals; setback.**

- A. No person who shall erect or cause to be erected a secondary fence shall be required to obtain a permit of any kind from the Building Inspector or the Board of Architectural Review or as otherwise provided if such a fence is constructed in the manner set forth herein.
- B. All other fences of any kind shall be the subject of approval by the Building Inspector, and/or the Board of Architectural Review in the manner now required by law.
- C. All fences of any kind shall be subject to the applicable setback provisions of Chapter 100 hereof.

**§ 49-5. Manner of construction of fences.**

- A. A secondary fence may be erected to the height of eight feet.
- B. No fence shall enclose an area in excess of 35% of the lot upon which it is erected.
- C. A secondary fence shall be constructed only of black plastic mesh material of a type approved by the Board of Trustees and shall be erected on thin black metal stakes of a type approved by the Board of Trustees, preferably behind shrubs or vegetation hiding the same from public view.
- D. A primary fence shall be of such construction, design and material as may be determined by the Board of Architectural Review in its review of the same as now required by law.

**§ 49-6. Variances.**

The Board of Zoning Appeals is hereby vested with jurisdiction to grant variances from the provisions herein for the placement of fences, except the construction of permanent perimeter fences, based on hardship considerations due to lot size and or terrain conditions. Such a variance shall be in the nature of an area variance and be governed by the principles of law applicable thereto.

**§ 49-7. Penalties for offenses.**

Any person who violates the provisions of this chapter shall be punishable in the same manner as a violator of Chapter 100 hereof.