

**VILLAGE OF CAYUGA HEIGHTS  
LOCAL LAW 9 OF THE YEAR 2011**

**A LOCAL LAW AMENDING SECTION 9, “FENCES AND WALLS,” OF THE  
VILLAGE OF CAYUGA HEIGHTS ZONING ORDINANCE AND REVOKING LOCAL  
LAW NO. 2 OF THE YEAR 2010**

Be it enacted by the Board of Trustees of the Village of Cayuga Heights as follows:

**SECTION I.     PURPOSE AND INTENT.**

The purpose of this Local Law is to amend Section 9, “Fences and Walls,” of the Village of Cayuga Heights Zoning Ordinance to provide definitions of “Fences and Walls” and “Exclosure Fences” and to permit the erection thereof, under the stated conditions. Further, this Local Law shall revoke, in its entirety, Local Law No. 2 of the Year 2010. The intent of this Local Law is to provide Village residents greater flexibility in their decisions concerning the type of fences they erect, landscaping and design, and, specifically to protect the health, safety, and welfare of Village residents and their property from injury and damage due to deer population growth within the Village.

**SECTION II.     AUTHORITY.**

This Local Law is enacted pursuant to the grant of powers to local governments provided for in (i) Section 10 of the Municipal Home Rule Law to adopt and amend local laws not inconsistent with the provisions of the New York State Constitution or not inconsistent with any general law relating to its property, affairs, government or other subjects provided for in said Section 10 of the Municipal Home Rule Law, (ii) Section 10 of the Statute of Local Governments and (iii) Section 7-700 of the Village Law.

**SECTION III.   AMENDMENT OF ZONING ORDINANCE.**

As of the effective date of this Local Law, Local Law No. 2 of the Year 2010 is deleted in its entirety. Further, as of the effective date of this Local Law, the text of Article IX, Section 9, “Fences and Walls,” of the Village’s Zoning Ordinance is deleted in its entirety and replaced by the following:

**A.     DEFINITIONS.**

For the purposes of this Zoning Ordinance, the following terms will have meanings set forth below:

**Fence or Wall** - Any structure of any material or combination of materials, including a gate that is part of the structure, that is designed to enclose land, divide land, mark a boundary, create a barrier, limit access to or direct passage across land, provide screening, protect against a potential hazard, or serve a decorative purpose. A freestanding arch or arbor shall not be considered a fence or wall even

if it otherwise satisfies the foregoing definition. In no case will living plants, such as hedges, shrubs, bushes or trees, be deemed or considered to be fences or walls under this Ordinance, regardless of how these may be arranged or located, and regardless of whether these may serve the same or a similar purpose as a fence or wall. Terraces, steps and other similar improvements will not be deemed to be fences. Earthen berms that exceed four (4) feet in height above the natural grade will be deemed to be fences under the provisions of this Ordinance. The words “fence” and “wall” are used interchangeably in this Ordinance.

**Height (of fences and walls)** - The distance measured from the lowest point of a fence to the highest point of any component part of the fence, other than arches, arbors, gates and entrances. A fence built on a man-made berm of earth or other natural materials shall be measured from the base of the berm to the top of the highest point of any component part of the fence, other than arches, arbors, gates and entrances. Examples of how measurements are taken may be obtained from the Village Engineer’s Office.

**Exclosure Fences** - A fence that is designed and used to prevent animals from obtaining access to individual plantings or small groups of plants, flowers, gardens, lawn areas, shrubs, bushes or trees in order to assist with or promote their preservation, health or growth. Exclosure fences may not extend more than eighteen (18) inches on average from the furthest-most plant protrusion and no greater than three (3) feet at any point from the furthest-most plant protrusion, as determined by the Code Enforcement Officer. Exclosure fences shall not exceed eight (8) feet in height and must be constructed so that (1) any portion of such exclosure fence that is more than four (4) feet in height, when viewed from a position that is at a right angle to the face of the exclosure fence, is at least 90% open, and (2) all of the materials of such fence are not brightly-colored. Exclosure fences located between a front property line and the required front yard set-back shall not exceed 75% of the total linear front property line of any parcel of land.

**Seasonal Exclosure Fences** - An Exclosure Fence (as defined above) that is intended to be temporary and erected **ONLY** from November 1<sup>st</sup> to May 1<sup>st</sup>. Seasonal exclosure fences must be removed by May 1<sup>st</sup>. Any exclosure fence remaining after May 1<sup>st</sup> of any year shall be deemed a **Permanent Exclosure Fence** and subject to the permitting requirements set forth below.

**B. PERMIT REQUIRED.**

A zoning permit shall be required for all fences that exceed four (4) feet in height, regardless of the location on the property, except for seasonal exclosure fences. Seasonal exclosure fences shall be exempt from the permitting requirements of this Ordinance. All permanent exclosure fences exceeding four (4) feet in height, regardless of the location on the property, shall require a zoning permit.

Prior to the erection or construction of any fence that exceeds four (4) feet in height, with the exception of a seasonal enclosure fence, the property owner must obtain a zoning permit signed by the Code Enforcement Officer of the Village of Cayuga Heights permitting the fence in the location(s) stated on the permit. In the event that any applicant for a zoning permit for a fence is denied such permit on the basis that the proposed fence does not comply with the terms and provisions of this Article IX, Section 9, the applicant for the zoning permit shall have the right to seek relief from these zoning restrictions by applying for an area variance for the proposed fence from the Zoning Board of Appeals. Any fence in existence as of the effective date of this Local Law may remain in existence, in its present location, provided that it satisfies the requirements of this Article IX, Section 9, even if no permit for such fence had been issued.

C. **FENCES UP TO FOUR (4) FEET IN HEIGHT AND ENCLOSURE FENCES.**

A fence up to four (4) feet in height, and any enclosure fence, may be erected or constructed at any location on any parcel of property, subject to the limitations set forth above.

D. **FENCES EXCEEDING FOUR (4) FEET IN HEIGHT**

A fence that exceeds four (4) feet in height may be erected or constructed either

(i) provided that it satisfies the height limitations of Article IX, Section 5 above and the yard set-back limitations of Article IX, Section 6 above,

or

(ii) provided that any portion of a fence that exceeds four (4) feet in height and that is **located between a side or rear property line and the required yard set-back**, as well as any enclosure fence that is erected at any location on the property, must be constructed so that (1) any portion of such fence that is more than four (4) feet in height, when viewed from a position that is at a right angle to the face of the fence, is at least 90% open, and (2) all of the materials of such fence are not brightly-colored. Notwithstanding the foregoing, chain link fencing will not be permitted for the portion of a fence over four (4) feet in height, even if such fence material otherwise satisfies requirements (1) and (2). **No fence exceeding four (4) feet in height, excluding enclosure fences, shall be allowed between the front property line and the required front yard set-back.** Enclosure fences located between a front property line and the required front yard set-back shall not exceed 75% of the total linear front property line of any parcel of land.

E. **FENCES EXCEEDING EIGHT (8) FEET IN HEIGHT.**

No fence, including enclosure fences, exceeding eight (8) feet in height may be erected or constructed at any location on any parcel of property, unless it satisfies the height limitations of Article IX, Section 5 above and the yard set-back limitations of Article IX, Section 6 above.

F. **SWIMMING POOL FENCES.**

Swimming pools are required to be enclosed by fences in accordance with the applicable provisions of New York State law.

SECTION IV. **SUPERSEDING EFFECT.**

All Local Laws, resolutions, rules, regulations and other enactments of the Village of Cayuga Heights in conflict with the provisions of this Local Law are hereby superseded to the extent necessary to give this Local Law full force and effect.

SECTION V. **VALIDITY.**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION VI. **EFFECTIVE DATE.**

This Local Law shall be effective as of the date of filing with the New York Secretary of State, except that it shall be effective from the date of service as against a person served with a copy thereof, certified by the Village Clerk, and showing the date of its passage and entry in the Minutes of the Village Board of Trustees.