

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Wayland

Local Law No. 3 of the year 20²⁰

A local law Regulating Fences and Related Structures in the Town of Wayland
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Wayland as follows:

See attached for the complete text of the Local Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2020 of the ~~(County)(City)(Town)(Village)~~ of Wayland was duly passed by the Town Board on August 12, 2020, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. ~~(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 2011, in accordance with the applicable provisions of law.

3. ~~(Final adoption by referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 1 above.

Natasha Baurd

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date:

August 12, 2020

(Seal)

TOWN OF WAYLAND, NEW YORK
A LOCAL LAW REGULATING FENCES AND
RELATED STRUCTURES IN THE TOWN OF WAYLAND

LOCAL LAW NO. 3 OF THE YEAR 2020

Be it enacted by the Town Board of the Town of Wayland as follows:

Section 1: Purpose

A. It is the purpose of this local law to regulate the location, height, and other attributes of fences and related structures in all zoning districts, and it shall apply to fences, walls used for a fence-like purpose, and any other similar construction.

B. The intent of this local law is to provide uniform enhancement, security, and privacy to property. Fencing that legally existed prior to the adoption of this local law may continue as long as it is kept in substantial repair. The replacement or repair of such fencing may occur only in-kind with respect to size and appearance.

Section 2: Definitions

FENCE: An artificially constructed enclosure or barrier or any material or combination of materials, but not including a hedge or other natural growth, erected to enclose or screen areas of land. A fence shall be considered an accessory structure.

FENCE, AGRICULTURAL: A fence used to protect livestock, limit the movement of livestock, or protect agricultural fields.

FENCE, BOUNDARY: A fence located on or near a property line or lines. A boundary fence shall include any part of a fence that is generally parallel to a lot line and/or is located within the required minimum depth of yard or setback for principal structures.

FENCE, DEER-PROTECTIVE: A fence placed around a garden, trees, bushes, or other vegetation and made of materials typically used to prevent deer or other wildlife from damaging the vegetation within the fenced area.

FENCE, PRIVACY: A fence located within the buildable area of residential lots and generally intended to divide portions of a lot into outdoor living areas and block public view.

FENCE, SAFETY: A fence with the principal purpose of providing a safety barrier to danger inside or beyond the fenced area or to enclose an attractive nuisance.

FENCE, SNOW: A temporary fence used to control snow or wind.

Section 3: General Requirements

A. All fences, with the exception of snow fences, agricultural fences, and deer-protective fences, shall require a building permit.

B. No fence shall be constructed or installed over any portion of a Town easement or right of way unless first approved by the Town Highway Superintendent.

C. All fences shall be constructed within the boundaries of the lot on which the fence is located, and shall be set back a minimum of one foot from the lot boundaries. In addition, all fences located along or near a lot boundary that abuts a public roadway, sidewalk, or right of way shall be set back a minimum of one foot from the limits of said public roadway, sidewalk, or right of way.

D. No fence shall be installed or constructed in a location that results in any encroachment upon, interference with, or obstruction of any public roadway, sidewalk, or right of way, or that results in any unsafe obstruction of the view of motorists or pedestrians, as determined by the Town Highway Superintendent or Code Enforcement Officer.

E. All fences shall be constructed of materials commercially available for fencing purposes and shall be uniform in appearance.

F. The most finished side of a fence must face the adjoining property or properties and/or public right of way.

G. Height Requirements

1. Fence height shall be measured from the top of the fence to the ground surface directly beneath the fence.
2. Commercially manufactured decorative caps located on the top of fence posts shall be excluded from the height measurement and shall not exceed 12 inches in height or width.
3. All fences shall follow the natural contours of the land on which they are constructed or installed.
4. The maximum allowed fence heights are as follows:¹
 - (A) Three feet six inches for fences in the front yard of residential lots.
 - (B) Eight feet for boundary fences separating any commercial or industrial use from a residential use.
 - (C) Six feet for all other fences.

H. Back-to-back boundary fences shall not be allowed unless the adjacent parcels separated by the fences have different owners.

¹ NOTE TO THE TOWN: The sample fence law we provided had rules concerning fence height spread across various sections of the law. We think it is clearer and simpler to have all the height limits in one place, in a single list as here. The list contents above are our suggestions, but the Planning Board/Town Board can of course add, remove, or change specific height requirements as you see fit.

I. Snow fences may be in place only between November 1 and April 1. Snow fences shall be set back a minimum of three feet from front parcel boundaries, and shall not encroach upon or cause drifting of snow on any adjacent parcel or any public roadway, sidewalk, or right of way.

J. Walls

1. Walls, including but not limited to retaining walls, that are under 18 inches in height shall be exempt from the requirements of this local law.
2. Walls that are 18 inches or more in height and used for a fence-like purpose shall be subject to the requirements of this local law, and shall be regulated in the same manner as their corresponding fence type as set forth in this local law.
3. Retaining walls shall be exempt from the height requirements of this local law if the level of the retained earth or soil on the uphill side is within one foot, measured vertically, of the top of the retaining wall.

K. Maintenance

1. Fences and other similar improvements must be kept in good condition and repair. Dilapidated, rotted, rusted, broken, or unsightly fences must be repaired, replaced, or removed.
2. Metal fences susceptible to rust shall be painted with a protective coating that is uniform in appearance.

L. Enforcement

1. If, after an on-site inspection, a Code Enforcement Officer finds that a fence or related condition or improvement is in violation of any provision of this local law, the Code Enforcement Officer may issue written notice to the owner of the affected property. Such notice shall identify the nature of the violation and state that the violation must be corrected within 30 days of delivery of the notice. If such notice is sent by mail, delivery shall be deemed complete two business days after the date of mailing.
2. If a violation that is the subject of a notice described in paragraph L.1 above is not corrected within 30 days of delivery of the notice, or within such other time as may be reasonably agreed upon by the Code Enforcement Officer and the owner of the affected property, the owner shall be guilty of a violation and subject to a fine of not less than \$50.00 nor more than \$100.00 for a first violation, and, for each subsequent violation within a five-year period, a fine of not less than \$50.00 nor more than \$200.00 or imprisonment for not more than 15 days, or both fine and imprisonment. Each week of continued violation shall constitute a separate violation.

M. Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provision shall be deemed invalid, all other provisions shall remain valid and enforceable.

N. This local law shall take effect upon its being duly filed in the office of the Secretary of State of the State of New York as provided in Section 27 of the Municipal Home Rule Law.