A local law to amend Article I of Chapter 64 (entitled Fences, Hedges, Walls and Plantings) of the Code of the Village of Sea Cliff, to clarify fence and wall permit regulations.

Section one. Sections 64-1, 64-2 and 64-3 of Article I of Chapter 64 of the Code of the Village of Sea Cliff hereby is hereby amended, to read as follows:

**“§64-1. Definitions.**

The definitions herein apply only to Article I herein.

**Fence** – includes a fence, wall, and post of all types and materials, except a retaining wall.

**Open Wire Fence** – a fence consisting of posts with strained wires, wire netting or other wire work. Barbed wire fencing is specifically excluded and not deemed open wire fencing.

**Retaining Wall** – any wall in excess of 48 inches in height constructed, installed or erected for the purpose of retaining or supporting adjoining earth, rock, and accessory structures.

**64-2. Permitted Fences and Walls.**

A. Except as otherwise provided for in the Village Code, all fences and walls within the Village of Sea Cliff shall conform to the requirements of this Article. Except as excluded under section 64-2(A)(5), upon first applying for and obtaining a building permit from the Building Department, the following fences and retaining walls are permitted:

 1. **Side Yard/Rear Yard**

 A fence located in a rear or side yard, as such yards are defined in Chapter 138:

 a. made of wood, at a height of not more than five (5) feet, together with an additional one (1) foot high top portion containing open type fencing, including lattice, slats or similar open fencing; or

 b. made of wrought iron, aluminum or cast iron, at a height of not more than six (6) feet; or

 c. made of open wire fencing, at a height of not more than five (5) feet.

2. **Front Yard**

 A fence located in a front yard, as front yard is defined in Chapter 138, made of natural wood, wrought iron, aluminum, cast iron or open wire fencing:

 a. within 15 feet of an intersection and/or a curb cut, at a height of not more than three (3) feet, or

 b. in any other location in a front yard, at a height of not more than four (4) feet.

3. **Retaining Walls**

 a. Retaining walls not exceeding four (4) feet in height, and no two (2) retaining walls may be closer than five (5) feet to one another, measured from wall face to wall face. Retaining walls shall not extend more than three (3) inches above the ground that they support.

 b. Retaining walls shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Applications for retaining wall plans shall include such information, detail and reports as required by the Building Department.

4. **Planning Board Approval**

 Where fences or retaining walls do not comply with the provisions of section 64-2(A)(1), (2) or (3), Planning Board approval is required in accordance with section 64-3.

5. **Exclusions from Permit Requirement**

 Notwithstanding the requirements of section 64-2(A)(1) and (2), the following fences do not require a building permit from the Building Department:

 a. Open wire fences five (5) feet or less in height; and

 b. Any fence four (4) feet or less in height that does not require Planning Board pursuant to sections 64-2(A)(3) and 64-3.

 B. The height of a fence shall be measured from the ground level on the lower side of such fence.

 C. Wood fences shall be constructed with the finished and/or good side facing away from the premises on which such fence is located.

**64-3. Exceptions Permitted by Planning Board.**

A. The provisions of §64-2 notwithstanding, fences in excess of the prescribed heights, wood fences with the finished side facing the premises on which the fence is erected, fences of a material not permitted herein, retaining walls extending more than three (3) inches above the ground that they support, retaining walls closer to one another than the prescribed distance, and any fence not eligible for a building permit as provided in may be permitted upon application to the Planning Board of the Village of Sea Cliff for a permit to erect or maintain such fence or retaining wall. The fee for such permit shall be as set forth in Appendix Chapter A142. Such fee shall accompany each application, which shall be in writing and shall be filed with the Building Department.

 B. Notwithstanding any other provision in the Village Code, applications for Planning Board approval, as permitted in this Article, shall be in accordance with the procedure in this section.

 1. On an interior lot, an applicant for a fence or retaining wall approval shall provide a notice, as prepared by the Village, to property owners of all properties that (a) abut the applicant’s premises or (b) any portion of which is on the opposite side of any street on which the applicant’s premises abuts.

 2. On a corner lot, an applicant for a fence or retaining wall approval shall provide a notice, as prepared by the Village, to property owners of all properties that (a) abut the applicant’s premises, (b) abut the corner intersection, and (c) any portion of which is on the opposite side of any street on which applicant’s premises abuts.

 3. The notice required by subsections 64-3(B)(1) and (2) shall be sent in the following manner. The applicant shall prepare a map (in such form as may be required by the Village) stating the names of the owners of all properties to whom notice is required to be provided pursuant to subsections 64-3(B)(1) or (2). The applicant also shall deliver to the Building Department unsealed, prepaid, stamped envelopes addressed to each such property owner, with a return address provided on the envelope as Village Hall, 300 Sea Cliff Avenue, PO Box 340, Sea Cliff, New York 11579, and each envelope containing therein a copy of the plans depicting all details of the proposed fencing or wall, including the location, height, materials, fencing style, and direction of finished side of fencing, if applicable. The Village shall place a notice in each envelope providing that the recipient of the notice has fourteen (14) calendar days to submit to the Village a written objection or concern to the fencing, and shall thereafter mail the envelopes.

 4. If no person submits a written objection or concern to the Village regarding the proposed fence or wall, within the fourteen (14) period, and the proposed fencing requires no further approvals or review by any other board or agency with jurisdiction, the Building Department shall issue a building permit for the proposed fence or wall.

 5. If any person presents a written objection or concern to the Village regarding the proposed fence or wall, the applicant may make an application for Planning Board approval for permission to construct the fence or wall. The Planning Board application procedure shall be the same as an application for site plan approval, as provided in Chapter 107, and the Board shall apply the criteria set forth in §64-3.1 in rendering a determination.”

 Section two. Any local law, ordinance, or resolution of the Village of Sea Cliff in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section three. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section seven. This local law shall take effect immediately upon adoption and filing of such law pursuant to the Municipal Home Rule Law.