Chapter 77

FENCES AND WALLS

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[HISTORY: Adopted by the Board of Trustees of the Village of Kensington 3-19-1975 by L.L. No. 2-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 151.

§ 77-1. Height restricted. [Amended 7-30-1980 by L.L. No. 1-1980]

No fence or wall, other than a retaining wall, shall exceed six feet in height. If at the property line of a lot nearest the proposed fence or within three feet thereof the natural elevation of the land has been raised above its natural state, the height of the fence shall include the distance the land was so raised.

§ 77-2. Compliance with side and rear yard restrictions. [Amended 5-17-1989 by L.L. No. 6-1989; 2-17-1993 by L.L. No. 1-1993]

Fences and walls, other than a retaining wall, must comply with the side yard and rear yard restrictions applicable to a building or structure in the district in which such fence or wall is to be located, except as otherwise provided for herein. In no event shall any fence be permitted in a front yard except as provided in § 77-7.

§ 77-3. Retaining wall exceptions.

A retaining wall need not comply with front yard, side yard or rear yard restriction, provided that its height is no greater than that of the land in its natural state at the point where such retaining wall is to be constructed. Any portion of such wall whose height exceeds that of the land in its natural state at the place where it is to be constructed is not regarded as a retaining wall, notwithstanding that dirt and soil may be piled or graded against it, and such portion of the wall must comply with the provisions of the chapter.

§ 77-4. When building permit required. [Amended 7-25-2012 by L.L. No. 3-2012]

Notwithstanding any provisions of the Building Zone Ordinance[1] to the contrary, a fence, irrespective of height, or a retaining wall of more than three feet in height over the lower grade, shall not be erected until plans are filed with the office of the Village Clerk, addressed to the Board of Trustees of the Village, and a building permit is issued authorizing its construction.

1. **Editor's Note: See Ch. 151, Zoning.**

§ 77-5. Fences in side and rear yards. [Amended 5-17-1989 by L.L. No. 6-1989]

Notwithstanding any provision of the zoning regulations of the Village to the contrary,[2] a fence not more than four feet in height need not comply with side yard setback requirements and may be located on a side property line, and a fence not more than six feet in height need not comply with rear yard setback requirements and may be located on a rear property line.

§ 77-6. Nonconforming fences.

Any fence in violation of the provisions hereof but lawfully existing at the effective date of this chapter may be continued in use, but shall not be altered or enlarged or used except in compliance with this chapter and any amendments thereto.

§ 77-7. Fences on corner lots. [Added 2-17-1993 by L.L. No. 1-1993[3]]

A. For the purpose of this section, a corner lot shall have two front yards: a principal front yard which is the yard extending across the entire width of the lot between the building line of the dwelling in which the main entrance is located and the line of the street upon which the main entrance faces (the principal street) and a secondary front yard which is the yard extending across the entire width of the lot between the building line of the side of the dwelling and the line of the street upon which it faces (the secondary street), excluding that portion of the lot that is within the principal front yard.

B. The Board of Appeals, after a public hearing, may permit the enclosure of the secondary front yard by a fence, not to exceed four feet in height, that runs parallel to the

2. **Editor's Note: See Ch. 151, Zoning.**

3. **Editor's Note: This local law also provided for the renumbering of former § 77-7, Penalties for offenses, as § 77-8.**

principal street and is no closer to the principal street than the building line of the dwelling in which the main entrance is located and thence runs parallel to the secondary street to the rear line of the lot.

C. The fence shall be approved by the Board of Appeals upon a finding that it is not visible from surrounding properties or from any street. In making this determination, the Board of Appeals shall consider the material, style, height, color and setback of the fence and the surrounding landscaping and shall be entitled to impose conditions designed to shield it from the view of surrounding properties and from any street.

§ 77-8. Penalties for offenses. [Amended 5-17-1989 by L.L. No. 1-1989.]

Each person who violates any provision of this chapter shall, for each and every day that said violation continues, be subject to a fine of not more than $1,000 or imprisonment for a period not to exceed six months, or both such fine and imprisonment.