VILLAGE OF ASHAROKEN

LOCAL LAW NO. # 3 -2020

A LOCAL LAW AMENDING CHAPTER 125 OF THE CODE OF THE VILLAGE OF ASHAROKEN ENTITLED "ZONING"

BE IT ENACTED by the Board of Trustees of the Village of Asharoken as follows:

Section One. Legislative Intent.

The Board of Trustees finds that it is in the best interests of the Village to regulate the height of fences to address the needs of residents for safety, privacy, preservation of water views and property values, without adversely affecting adjacent property owners or the character of the neighborhood and to otherwise protect the public health, safety and general welfare of the Village of Asharoken and that it is in the best interests of the Village to amend Chapter 125 of the Code of the Village of Asharoken entitled "ZONING" for this purpose.

Section Two. Article III of Chapter 125 is amended by adopting adding a new Section 125-10.A to provide as follows:

§125-10.A. FENCES

A. Permit Procedure.

1. No fence shall be erected, constructed or altered until a permit has been issued by the Superintendent of Buildings, upon submission and approval of the following:

   a. Application form;
   b. Except as provided in subsection (f) hereof, a survey of the property line(s) along which the fence is to be located or from which it is to be set back and the location of the proposed fence;
   c. Fence detail drawing;
   d. Application fee; and
   e. For fences located seaward of any house on the north or south side of Asharoken Avenue that exceed 4 feet in height, a special use permit from the Board of Zoning Appeals in accordance with §125-11.D.
   f. If a fence is to be located on top of an existing bulkhead, a photograph of the bulkhead may be submitted in lieu of a survey.

2. Upon completion of the erection, construction or alteration of the fence, a Certification of Completion shall be issued by the Superintendent of Buildings upon (a) the Superintendent of Buildings' inspection and determination that the fence has been erected, constructed or altered in accordance with the approved plans and specifications

and (b) submission to the Superintendent of Buildings of an affidavit of the property owner certifying that the owner is familiar with the location of the owner's property lines and the fence does not encroach onto adjacent properties.

3. The term "fence" includes fences of all types and materials, except living fences which are subject to the regulations set forth in §125-10.B and pool fences which are subject to the regulations set forth in §125-32. The term "fence" includes walls of all types and materials, except retaining walls. Walls require a building permit in addition to a fence permit.

4. A permit shall be effective to authorize the commencement of work in accordance with the approved application and plans for a period of six (6) months after the date of issuance.

B. Fence Regulations.

1. No fence, except deer fences, shall exceed a height of 6.5 feet from the existing grade at the base thereof. Deer fences which are at least 95% transparent shall not exceed a height of 8 feet from the existing grade at the base thereof.

2. A fence located in a front yard must be setback at least 10 feet from the paved portion of any street.

3. A fence shall be constructed with a finished side facing any adjoining property or a street. No supports, posts or bracing shall be placed on the same side of the fence which faces adjoining property or a street. A double-sided fence (same on both sides) utilizing in line posts is permitted. A chain link fence and a deer fence must be screened from view by landscaping when facing a street.

4. Barbed wire, concertina wire or similar or other pointed or sharp-edged wire or posts, which could cause injury to persons or animals is not permitted.

5. A fence is not allowed on any beach, except a wood lath snow fence not exceeding 4 feet in height running parallel to the water, for which no permit is required.

6. A fence, including a wood lath snow fence, is not allowed in any wetlands on the bay side or on the sound side on the vegetated dune, including beach lots from 296 through and including 516 Asharoken Avenue.

7. A fence shall be maintained in a sound structural condition and in good repair.

C. Nonconforming Fences.

1. Any fence existing at the time of the adoption of this local law that is not in conformity with the requirements of subsection B hereof may remain, subject to the provisions of this subsection C.

2. A nonconforming fence shall not be extended, enlarged or moved, except in conformity with the provision of this Section.

3. Unless in a state of disrepair, a nonconforming fence shall not be altered or replaced.

4. A nonconforming fence in a state of disrepair may be repaired or replaced in kind, provided such repair or replacement does not affect more than fifty (50) percent of the existing linear length of the fence over the period of two (2) years.

D. Special Use Permit

1. Fences located seaward of any house on the north or south side of Asharoken Avenue that exceed 4 feet in height require a special use permit from the Board of Zoning Appeals in accordance with the procedure set forth in Article VII of Chapter 125.

2. In addition to the factors set forth in §125-41, a special use permit for a fence shall not be granted by the Board of Zoning Appeals unless it shall determine that the fence will not substantially obstruct the view from other properties of either the beach or water.

E. Penalties for offenses.

Upon conviction thereof, any person or legal entity violating any provision of this Section shall be subject to a fine of not more than $250 for each offense.

Section Three. Article III of Chapter 125 is amended by adopting adding a new Section 125-10.B to provide as follows:

§125-10.B. LIVING FENCES

A. Definition.

The term "living fence" means any tree or shrub, including, but not limited to, privet, arborvitae, boxwood, willow, juniper, holly, skip laurel and similar trees and shrubs planted along or parallel to a property line for privacy.

B. Regulation.

A living fence located seaward of any house on the north or south side of Asharoken Avenue shall not exceed the height of 4 feet.

C. Penalties for offenses.

Upon conviction thereof, any person or legal entity violating any provision of this Section shall be subject to a fine of not more than $250 for each offense.

Section Four. Severability.

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Five. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.