

**VILLAGE OF WINDSOR
ORDINANCE 2019-23**

**AN ORDINANCE TO AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES
CONCERNING FENCES**

WHEREAS: Village Staff recommends certain amendments to the Village of Windsor Code of Ordinances regarding fences; and

WHEREAS: the Village Board finds the proposed amendments to be in the public interest.

NOW, THEREFORE, the Village Board of the Village of Windsor, Dane County, Wisconsin do ordain as follows:

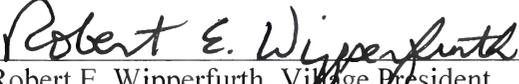
SECTION 1. Sections 10-184 through 10-195 of the Windsor Code of Ordinances are hereby amended to read as stated in the attached Exhibit A.

SECTION 2. All other provisions of Code of Ordinances not specifically amended herein shall remain unmodified and in full force and effect.

SECTION 3. This ordinance shall take effect upon passage and publication as provided by law.

The above and foregoing Ordinance was duly adopted at a meeting of the Village Board of the Village of Windsor held on October 3, 2019, by a vote of 5 in favor and 0 opposed.

VILLAGE OF WINDSOR



Robert E. Wipperfurth, Village President

Attested by:



Christine Capstran, Village Clerk

Published: October 10, 2019

Effective: October 11, 2019

Incorporated by Reference:

Exhibit A: Sections 10-184 through 10-195

Exhibit A

DIVISION 2. - FENCES

Sec. 10-184. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Easement. A grant of the right of use over real estate.

Easement, drainage. An easement for any channel, drainageway, or watercourse right-of-way, or stormwater facility.

Easement, path. An easement for any path, trail, or sidewalk.

Easement, utility. An easement for any pole, wire, conduit, storm and sanitary sewer, gas, water and head main, or other utility line.

Fence. A barrier of any material or combination of materials, including walls, and vegetation such as Hedges, erected to enclose, screen, or separate areas. ~~A constructed barrier of any material, or combination of materials, erected to enclose, screen, or separate areas.~~

Fence, architectural or aesthetic. ~~A fence constructed to enhance the appearance of the structure or the landscape that does not enclose an area, or impede ingress or egress to the property. An open fence constructed to enhance the appearance of a property and/or identify property lines, but does not enclose or screen areas.~~

Fence, open. A fence constructed with openings between the materials used in its construction (i.e. picket fence, split rail fence, etc.)

~~Fence, protective. A fence constructed to enclose a hazard to the public health, safety and welfare.~~

~~Hedge. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.~~

Lot. A parcel of land designated in a plat or certified survey map, or described in a conveyance recorded in the Office of the Register of Deeds.

Lot, corner. A lot that has frontage on two streets at their intersection.

Lot, interior. A lot that has frontage on one street.

~~Private or residential swimming pool. An outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point of 18 inches or greater located above or below the surface of ground elevation, used or intended to be used by the owner, operator or lessee thereof and his or her family and guests, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.~~
Swimming pool. A structure, permanently constructed or portable, having capable of containing a depth of water 18 inches or greater, located below (in-ground) or above (above-ground) the level of the surrounding land, designed, used, and maintained for swimming and bathing.

Sec. 10-185. - Applicability; exceptions.

This division shall not regulate agricultural fences, which shall be governed by State law. In addition, architectural and aesthetic fences do not require issuance of a fence permit; such fences shall comply with setback, height and construction standards established by this division. are regulated under Wis. Stats. ch. 90.

Sec. 10-186. - Permits; plans and specifications; refusal to issue permit.

- (a) ~~Before work is commenced on the construction or erection of a residential or commercial fence or on any major alterations, additions, remodeling or other improvements an application for a fence building permit to construct, erect, alter, remodel or add must be submitted in writing together with a permit fee in the amount provided in the Village fee schedule to the Village Building Inspector. No work or any part of work shall be commenced until a written permit for such work is obtained by the applicant. Permits. Prior to the commencement of construction, alteration, remodeling or other improvements of a fence, the applicant shall submit zoning and building permit applications and pay the applicable fees to the Village Zoning Administrator and Building Inspector.~~
- (b) ~~Plans and specifications and pertinent explanatory data, including type of construction and materials, and a scalable, dimensioned site plan showing the proposed location in reference to lot lines and structures shall be submitted to the Village Building Inspector at the time of application. Plans and specifications. The zoning and building permit applications shall include: fence type, material, and height; and a scaled site plan illustrating: the full property, property lines, property dimensions, all buildings and structures, all easements, and location of the fence and gates.~~
- (c) ~~The Village Building Inspector may refuse to issue a fence permit if the proposed material or design is unsightly, hazardous or would create a nuisance. Refusal to issue permit. The Village Zoning Administrator and Building Inspector may deny issuance of a zoning and building permit if the fence does not meet the intent of this division.~~

Sec. 10-187. - Height and setback requirements.

- ~~(a) Residential zoned property.~~
 - (1) ~~Corner lot yard determination.~~ For the purpose of this division, the Director of Planning and Development and/or their designee shall make a determination to establish the primary front yard on residential corner lots that abut two streets. The front yard shall be the street side frontage where the primary entrance to the residence is made. The alternate frontage shall be considered the corner lot street side yard.
 - (2) ~~Front yard.~~ Fences shall be prohibited in the required front yard, except an architectural or aesthetic fence limited to three feet in height above ground.
 - (3) ~~Side yard and rear yard.~~
 - a. ~~Fences may be located up to the property line in the required rear and side yards up to a height of six feet above ground.~~
 - b. ~~For corner lot street side yards, the fence setback shall be one half the normal required front yard setback as determined by section 52-21 of the Windsor Code of Ordinances. An architectural or aesthetic fence limited to three feet in height above ground shall be permitted beyond the setback.~~
 - (4) ~~Vision clearance triangle.~~ Fences shall not be placed within vision clearance triangles per section 52-32.
 - (5) ~~Fences within the Shoreland Zoning Districts shall also comply with setback requirements per section 54-8.~~

(a) Residential fences

(1) Corner lot.

- a. Primary front yard zone. The primary front yard zone shall be the street-side frontage where the primary entrance to the residence is located, as depicted in Figure 1. Fences are prohibited in the primary front yard zone except for architectural or aesthetic fences. Architectural or aesthetic fences shall not exceed four (4) feet in height and shall be located two (2) feet from the property line or sidewalk, whichever is greater.
- b. Secondary front yard zone. The secondary front yard zone shall be the street-side frontage perpendicular to the primary entrance to the residence, as depicted in Figure 1. Fences shall not exceed four (4) feet in height and shall be located two (2) feet from the property line or sidewalk, whichever is greater.
- c. Side and rear yard zone. Fences shall not exceed six (6) feet in height, except in a primary front yard zone and secondary front yard zone, and may be located on the property line.

(2) Interior lot.

- a. Primary front yard zone. Fences are prohibited in the primary front yard zone except for architectural or aesthetic fences. Architectural or aesthetic fences shall not exceed four (4) feet in height and shall be located two (2) feet from the property line or sidewalk, whichever is greater.
- b. Side and rear yard zone. Fences shall not exceed six (6) feet in height, except in a primary front yard zone, and may be located on the property line.

~~(b) Non-residential zoned property.~~

- ~~(1) Front yard. Fences shall be prohibited in the required front yard, except an architectural or aesthetic fence limited to four feet in height above ground.~~
- ~~(2) Side and rear yard. Fences may be located up to the property line in the required rear and side yards up to a height of eight feet above ground.~~
- ~~(3) Security fences. Security fences exceeding the location or height requirements of (b)(1) and (b)(2) above may be permitted upon approval of a site plan/plan of operation.~~

(b) Non-residential fences

(1) Corner lot.

- a. Primary front yard zone. The primary front yard zone shall be the street-side frontage where the primary entrance to the residence is located. Fences are prohibited in the primary front yard zone except for architectural or aesthetic fences. Architectural or aesthetic fences shall not exceed four (4) feet in height and shall be located two (2) feet from the property line or sidewalk, whichever is greater.
- b. Secondary front yard zone. The secondary front yard zone shall be the street-side frontage perpendicular to the primary entrance to the residence. Fences shall not exceed four (4) feet in height and shall be located two (2) feet from the property line or sidewalk, whichever is greater.
- c. Side and rear yard zone. Fences shall not exceed eight (8) feet in height, except in a primary front yard zone and secondary front yard zone, and may be located on the property line.

(2) Interior lot.

- a. Primary front yard zone. Fences are prohibited in the primary front yard zone except for architectural or aesthetic fences. Architectural or aesthetic fences shall not exceed four (4) feet in height and shall be located two (2) feet from the property line or sidewalk, whichever is greater.
- b. Side and rear yard zone. Fences shall not exceed eight (8) feet in height, except in a primary front yard zone, and may be located on the property line.
- (3) Special exception. The Village Board may grant a special exception to the provisions for non-residential fences based on factors unique to the property which render compliance physically or financially impracticable.
- (c) Vision clearance triangle. ~~Fences shall not be placed within vision clearance triangles per section 52-32.~~ Pursuant to section ~~See~~ 52-32, fences are prohibited in vision clearance triangles.
- (d) ~~Fences shall also comply with the setback requirements in the Shoreland Zoning District per section 54-8(a).~~ Shoreland Zoning District (an Overlay District). Pursuant to Chapter- 54, fences shall comply with the shoreland zoning setback regulations.

Sec. 10-188. - Fence placement and civil disputes.

- ~~(a)~~ The property owner shall be responsible for properly locating a fence in a legal location, and is responsible for any surveying work necessary to determine such legal location. The applicant for a fence zoning and building permit shall be solely responsible for determining the location of property boundaries and proper fence placement. The Village Zoning Administrator and Building Inspector may require that a survey be made and filed with the Village if the proper location of the fence is in question.
- ~~(b)~~ ~~Disputes between neighbors or with a subdivision covenant committee are private civil law questions and shall not be decided by the Village; private legal remedies may be pursued if a party believes a fence encroaches over property lines.~~

Sec. 10-189. - Temporary construction fences.

Fences erected for the safety and protection ~~of plantings or to warn of a construction hazard of construction sites,~~ or for similar purposes, shall be clearly visible and marked, ~~with colored streamers or other such warning devices at four foot intervals. Such fences shall comply with the setback requirements set forth in this division.~~ The issuance of zoning and building permit shall not be necessary for temporary construction fences ~~as described herein, but said fences shall not be erected for more than 60 days.~~

Sec. 10-190. - Swimming pool fences.

- (a) In-ground pools within the scope of this section that are not enclosed within a permanent building shall comply with one of the following:
 - (1) The pool shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence shall not be less than four feet or more than six feet in height, and shall be constructed so as not to have voids, holes or openings larger than four inches in one dimension. The fence shall be located no closer than three feet to the pool water. Pool fences shall be constructed with lockable gates or doors, which shall be kept locked when the pool is not in actual use; or
 - (2) The pool shall have a mechanical cover over the swimming pool of such a design and material that the cover can be securely fastened in place, and when in place shall be capable of sustaining

a person weighing 250 pounds. Such cover shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes.

- (b) ~~Above-ground pools capable of containing water at any point of a depth of 18 inches or greater with completely unobstructed sidewall, without decking, of three feet or greater, and with lockable entrance stairs or ladders, are exempt from the fence requirements of this section. If an above-ground pool does not meet the above sidewall standards due to inadequate sidewall height, lack of lockable stairs or ladders, construction of the pool into a hillside or raised decks around all or part of the pool perimeter, the fence or mechanical pool cover requirements applicable to in-ground pools shall apply. Above-ground pools are not required to have a fence or mechanical pool cover if:~~
- (1) ~~The above-ground pool has a height of three (3) feet or greater around the entire perimeter of the pool;~~
 - (2) ~~The above-ground pool has unobstructed sidewalls;~~
 - (3) ~~The above-ground pool has no deck;~~
 - (4) ~~The above-ground pool has a functional, lockable ladder; and~~
 - (5) ~~The above-ground pool is not built into a hillside.~~

Sec. 10-191. - Prohibited fences.

- (a) No residential fence shall be constructed which is of a dangerous condition, conducts electricity, is designed to electrically shock, or which uses barbed or razor wire. ~~Barbed wire may be used in commercially or industrially zoned areas if the devices securing the barbed wire to the fence are ten feet above the ground or height and project toward the fenced property and away from any public area.~~
- (b) No fence shall be constructed or maintained of unsightly or dangerous materials which would constitute a nuisance.
- (c) Non-municipal fences shall have no signs attached, except those installed by the manufacturer, or necessary for safety's identity.

Sec. 10-192. - Maintenance.

All fences shall be maintained and kept safe and in a good state of repair. The finished or decorative side of a fence shall face the adjoining property.

Sec. 10-193. - Nonconforming fences.

Any fence ~~or Hedge~~ existing on the effective date of the ordinance from which this article is derived and not in conformance with this division may be maintained, but alteration, modification, or improvement of said fence shall comply with this division.

Sec. 10-194. - ~~Removal of fences erected over utility easements.~~ Fence placement in easements.

~~Fences erected over utility easements may be removed by the pertinent utility at the expense of the property owner.~~

- (a) Utility easements. Fences may be placed in a utility easement only upon the property owner acknowledging to the Village in writing on the zoning and building permits the fence may be removed by the appropriate agency at the expense of the property owner at any time and for any reason.
- (b) Drainage easements. Fences are prohibited from being placed in a drainage easement.

(c) Path easements. Fences are prohibited from being placed in a path easement. If there is not a path easement, fences may not be placed closer than two (2) feet from any path, trail, or sidewalk.

Sec. 10-195. - Enforcement; penalties; appeals.

- (a) Any fence hereafter erected, enlarged, altered or repaired, or not constructed where required in violation of the provisions of this division, shall be deemed an unlawful fence.
- (b) The Village ~~Building Inspector shall promptly report all such violations to the Village Board, which may bring an action to enjoin the erection, enlargement, alteration, repair or reconstruction of such fence or the establishment of such fence in violation of this division or to cause such fence to be removed.~~
- (c) Any person who fails to obtain a zoning and building fence permits before starting construction shall be charged double the regular rate applicable permit fee. A stop work order may be issued by the Village Zoning Administrator or Building Inspector if any fence is being constructed without the proper permit.
- (d) Compliance with the provisions of this division may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this division.
- ~~(e) Any violation of this Division of the Code of Ordinances shall constitute a public nuisance and may be enjoined by an action by the Village pursuant to Chapter 823 of the Wisconsin Statutes. If an inspection reveals a noncompliance with this division, the Village Building Inspector shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted by the Village Building Inspector.~~
- ~~(f) If, after written notification, the violation is not corrected within 30 days, a stop work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop work order shall not be removed except by written notice of the Village Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.~~
- (g) Violations of this Division of the Code of Ordinances shall suffer a forfeiture pursuant to section 1-15. Each day each violation ~~continues after the 30-day written notice period has run~~ shall constitute a separate offense.
- ~~(h) Any person aggrieved by an order or a determination of the Village Building Inspector may appeal from such order or determination to the Village Zoning Board of Appeals within 30 days of such order or determination.~~

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FIGURE 1

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