

## ARTICLE XV. FENCES

### Sec. 10-655. Definitions.

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

*Fence* means any structure, partition or enclosure of wood, iron, metal, stone, brick, PVC or similar material, enclosing or dividing a piece of land. For the purposes of this division, the term "fence" shall not include naturally growing shrubs, bushes and other foliage.

### Sec. 10-656. Permit required.

- (a) No new fence shall be erected or existing fence altered, by repairing or replacing any structural element or repairing or replacing more than three panels or 25 linear feet (7,620 mm) of fence when no structural elements are being repaired or replaced, without a building permit issued therefor by the building official after he has collected the permit fee required in this Code and determined that the fence plans are in compliance with all applicable laws of the village and this section.
- (b) Exception. The following temporary fences shall be allowed without a permit:
  - i. Garden Enclosures. A temporary enclosure of a garden during the growing season is permitted without a building permit. The height of the garden barrier shall be a maximum of 2.5 feet (762 mm) and shall not be constructed of plastic mesh or solid material. The garden enclosure shall be located on the interior of a rear yard as defined by the zoning ordinance at least five feet (1,524 mm) from the rear and side property lines unless the rear yard is enclosed by a permanent privacy fence a minimum of four feet (1,219 mm) in height.
  - ii. Construction Enclosures. A temporary enclosure around the perimeter of a lot under-going construction or demolition is allowed without a fence permit for the duration of the construction or demolition permit and activity. All construction fences must be closed with a padlock to prohibit unauthorized access.
  - iii. Silt and Erosion Control Measures. Temporary measures installed to prevent soil erosion during construction shall be allowed without a permit. Such temporary fences are allowed only for the duration of the construction activities and associated permits.

### Sec. 10-657. Required fences.

Barriers are required for swimming pools. Refer to section 10-50, adopting the ICC International Building Code, 2018 edition, reference section 3109.3 and as amended in section 10-51, and section 10-526, adopting the ICC International Swimming Pool and Spa Code, 2018 edition, and as amended in section 10-527, for regulations pertaining to swimming pool barriers.

### Sec. 10-658. Placement.

- (a) No private fence shall be allowed or constructed on a public street, highway or alley right-of-way.
- (b) A fence may, by permit, be placed on a public utility easement so long as the structure does not interfere in any way with existing underground, ground or over ground utilities. Further, the village or any utility company having authority to use such easements shall not be liable for repair or replacement of such fences if they are moved, damaged or destroyed by virtue of the lawful use of the easement. Fences in violation of this section may be summarily removed by the village.
- (c) All fences shall be placed four inches (102 mm) off of all property lines unless an attachment is made to an existing fence. When an attachment is being made to an existing fence owned by another, written consent

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must be obtained from the owner of the existing fence and submitted as part of the supporting data for the permit application.

**Sec. 10-659. Construction requirements.**

- (a) No fence shall be constructed of material obviously intended to inflict great bodily harm should a person or animal attempt to climb or scale it. Such material includes, but is not limited to, electrically charged wires or other electrical conduit, broken glass, razor blades, razor wire and sharp or ragged metal spikes or spears. Barbed wire may be used only as authorized by Section 44-05-09 of the Zoning Ordinance.
- (b) All fences shall be constructed in conformity with the wind, stress, foundation, structural and other requirements of the building codes and laws of the village. At a minimum:
  - i. Post holes shall be a minimum six inches (152 mm) in diameter.
  - ii. Post holes for fences more than four feet (1,828 mm) in height must be a minimum 42 inches (1,067 mm) deep.
  - iii. Post holes for fences four feet (1,828 mm) or less in height must be a minimum 32 inches (813 mm) deep.
  - iv. Fences made of masonry or concrete block, shall be built upon a foundation with a minimum depth of 42 inches (1,067 mm).
- (c) Fences constructed with a minimum 50% solid materials shall be installed a minimum three inches above grade so as not to impede stormwater drainage. If located in a drainage swale or a drainage easement, the Village Engineer may require additional clearance from grade to allow for natural overland flow.
- (d) Fences shall be constructed so that structural elements or supports are located on the side of the fence facing toward the property on which the fence is constructed.

**Sec. 10-660. Maintenance of fences.**

All fences shall be maintained in good, structurally sound repair and in a neat, clean, presentable and attractive condition. Fences that are leaning at an angle of 15 degrees or greater are considered dangerous and shall be in violation of this ordinance. If any fence, on inspection by the building official, does not, in his determination, meet the requirements of this section, he shall order the owner or occupier of the premises to make the necessary repairs or improvements within 30 days. Should the owner or occupier of the premises fail to make repairs or improvements as directed, he shall be in violation of this Code and the building inspection shall cause a complaint to be issued and processed against the owner or occupier.

**Sec. 10-661. Nonconforming fences.**

Fences existing as of the adoption date of the ordinance from which this article is derived, which are not in violation of section 10-660, and are not located on public street, highway and alley rights-of-way but which violate other sections of this Code may continue to be maintained and to exist but may not be replaced, if destroyed or removed, to the extent that the violations would be continued.

**Sec. 10-662. Noncompliant fences deemed nuisances.**

Any fence which shall be erected, or shall be in the process of erection, or maintained contrary to the provisions of this article, is deemed a nuisance, and it shall be the duty of the building inspector and the police chief to abate the same.

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**Secs. 10-663—10-690. Reserved.**