



VILLAGE OF WINNEBAGO

MEMORANDUM

Prepared By: Joseph Dienberg, Village Administrator

To: Zoning Board

Date: June 3, 2025

Subject: Proposed Text Amendment to Fence Requirements to Unified Development Ordinance

Background Information:

An application was submitted requesting a text amendment to the Village's Unified Development Ordinance (UDO) Section 6.13.03(10), which governs fence standards in residential districts. The applicant, the property owner at 212 S. Seward, seeks to install a six-foot solid wood privacy fence in the rear yard. However, current UDO provisions prohibit the requested fence due to the following restrictions:

1. Subsection (a) requires fences in front or street-side yards to be at least 50% open (semi-transparent);
2. Subsection (b) limits fence height in those areas to a maximum of four (4) feet;
3. Subsection (d) applies those same standards to rear yards that abut a public street or alley, effectively treating them as front yards. This subsection requires fences to be set back at least ten (10) feet from the right-of-way and to be no more than 50% visually obscured.

Because the subject property's rear yard directly abuts a public alley and the proposed fence would be located closer than 16 feet to the alley, the proposed installation does not conform to existing standards. The applicant has stated that this creates an undue hardship and highlights an inconsistency in the ordinance related to certain lot configurations—specifically those with shallow rear yards or alley access that do not function as traditional front yards.

This application was initially discussed at the May 6, 2025, Zoning Board meeting. At that time, it was discovered that the request did not conform with the procedural standards necessary to move forward under the UDO, and therefore a public hearing was not scheduled. Following further review and subsequent conversations between Village staff and the Building Official, it was determined that the issue merits formal consideration through the proper public hearing process.

A Public Hearing will now be scheduled for the regularly scheduled Zoning Board meeting on Tuesday, July 1, 2025. Village staff is recommending the proposed amendment move forward for consideration, not only to address the applicant's concerns but to evaluate potential broader changes to the UDO to better account for nontraditional lot layouts, particularly those involving rear yards abutting alleys or narrow public rights-of-way. The following definitions from the UDO are included here for context:

1. **Yard, Front.** A yard on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot. As used in this ordinance the term "Front Yard" applies to principal buildings only.
2. **Yard, Rear.** A yard on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot. As used in this ordinance the term "Rear Yard" applies to principal buildings only.
3. **Yard, Side.** A yard on the same lot with the building situated between the building and the side line of the lot extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. As used in this ordinance the term "Side Yard" applies to principal buildings only.

The proposed text amendments to the Unified Development Ordinance are as follows:

- Text in blue is new language
- Text in red strikethrough is deleted language
- Text in black is included for reference

Unified Development Ordinance 6.13.03 Fences

In order to provide for maximum safety to the public and to ensure maximum enjoyment of the use of property, the following regulations for fences, walls, and similar structures shall apply.

1. No fence, including walls and similar structures, shall be constructed, erected, or replaced until a permit has been approved and issued by the Village Building Official.
2. The regulations set forth in this section shall not apply to fences erected within a railroad right-of-way.
3. No fence may be constructed within any public right-of-way.
4. No fence **permit may be granted by the Building Official for an area within, nor should any fence be constructed within** ~~may be constructed on~~ any public utility easement or drainage easement without the approval of the Director of Public Works. Such construction shall be at the owner's risk and liability and the Village shall not be liable for any damages which may occur as a result of such action. Furthermore, such fence shall not interfere with the provision of any utility

service or with natural or required drainage flow. It shall be the responsibility of the property owner to replace or restore any section of fencing which is removed or displaced in order to provide access to said easement.

5. No provision in this section shall be construed as a means of settling disputes between property owners regarding location of property lines or the maintenance of fences. Such disputes shall be considered entirely as civil matters and not as a violation of this section.
6. The height of a fence as permitted herein shall be measured at the existing or approved grade of a lot or parcel.
7. No fence may be constructed of barbed wire, spikes, or other sharp pointed instruments, except as provided for in this section, and may not be electrified.
8. On any corner lot or parcel, in the vision clearance triangle as determined in Article 6.05-04.05, no fence, wall, hedge, planting, or other object or material shall be constructed or maintained so as to obstruct vision ~~between a height of two and one half (2 1/2) feet and ten (10) feet above the centerline street grades.~~
9. All fences shall be installed so that the finished side of the fence shall face outwards toward the adjoining property or street right-of-way.
10. Fences in Residential Districts. Fences in a residential zoning district shall comply with the following additional specifications:
 - a. Any fence erected in a required front yard ~~or side yard abutting a street~~, or between the front of a structure and the abutting street right-of-way, shall be at least fifty (50) percent open, i.e., no more than fifty (50) percent visually obscured.
 - b. No fence greater than four (4) feet in height shall be constructed in a required front yard ~~or side yard abutting a street~~, unless the principle structure encroaches into the required front yard or side yard abutting a street, in which case such a fence may be as close to the front or side lot line as the encroaching structure.
 - c. No fence greater than six (6) feet in height shall be constructed in a required rear yard or interior side yard.
 - d. Fences installed in a **front, side, or** rear yard abutting a street shall comply with the **vision clearance triangle as determined in 6.04.05.** ~~standards and specifications for a fence erected in a required front yard. Fences up to six (6) feet high located in a rear yard abutting a street may be approved by the Village Building Official set back a distance of at least ten (10) feet from the abutting street right-of-way and otherwise in compliance with this section.~~

- e. Any fence constructed along a rear or side lot line that directly abuts a public alley shall be set back a minimum of three (3) feet from the alley right-of-way line. This setback is required to ensure sufficient clearance for public utility access, refuse collection, drainage, and snow plowing and other municipal maintenance operations. The setback area shall remain clear of any obstructions and shall not be used for storage or parking. Fences placed within this required clearance may be subject to removal or damage during municipal maintenance activities, and the Village shall not be responsible for such damage or for the cost of restoration. Where a platted or recorded easement exists along the alley, the more restrictive of the setback or easement shall apply.**

11. Fences in Business and Industrial Districts. Fences in a business or manufacturing zoning district shall comply with the following additional specifications:

- a. Fences in a required front yard or side yard abutting a street, or between the principle structure and the abutting street right-of-way, shall be at least fifty (50) percent visually open, i.e., no more than fifty (50) percent visually obscured.
- b. No fence in excess of four (4) feet in height may be constructed in a required front yard or side yard abutting a street, unless the principle structure encroaches into said required yard, in which case the fence may be as close to the front lot line or side lot line as the encroaching structure.
- c. No fence greater than six (6) feet in height may be constructed in a required rear yard or interior side yard, unless the abutting property is zoned business or industrial, in which case a fence may have a height of up to eight (8) feet, except as provided for herein.
- d. A fence located outside of a required yard and not between the principal building and any abutting public street right-of-way, may have a height of up to eight (8) feet. However, any industrial or public utility hazard located outside of a required or established yard setback and not between the primary building and any abutting public street right-of-way shall be completely surrounded with a protective security fence or similar structure at least six (6) feet, but not more than twelve (12) feet in height.
- e. Fences in industrial districts that are least six (6) feet in height and not located within a required setback may have a barbed wire security top of up to but no more than six (6) inches.