

VILLAGE OF NEWBERRY



Moose Capital of Michigan

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Ordinance No. 29 – Property Use ordinance

Regulation of Fences

Section 29:10 Regulation of Fences:

29:10:1 Short Title:

This section may be referred to and cited as the "Fence Ordinance of the Village of Newberry" or just "the Fence Ordinance"

29:10:2 Purpose:

The purpose of this section is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties to light, air and view.

29:10:3 Definitions:

In addition to the definitions contained elsewhere in this ordinance, as used in this chapter:

1. "Corner lot" means a lot abutting the intersection of a street and an alley.
2. "Double frontage lot" means an interior lot having frontages on two nonintersecting streets.
3. "Fence" means a structure or erection forming a barrier on either the whole or any portion of a given area.
4. "Hedge" means a bush, shrub or a living green fence of any nature forming a barrier on either the whole or any portion of a given area.
5. "Height of fence" means the vertical distance as measured from the ground level at the lowest grade level within three feet of either side of such fence to the uppermost portion of the fence.
6. "Obstruction of visibility" means any fence or hedge so located whereby drivers of motor vehicles will have their vision impaired, or whereby public safety is diminished.
7. "Right of way" means all of the land lying between property lines on either side of all streets, alleys and boulevards in the Village and includes lawn extensions and sidewalks and areas reserved thereof where the same are not yet constructed.

- c) No permit is required for a fence in an agricultural district.
- 2b. Residential Districts. In any residential district:
 - a) No fence or hedge which presents an obstruction to visibility shall be located within twenty-five feet of any street intersection.
 - b) In a front yard, twenty-five feet or less from a street right of way, fences or hedges shall not exceed four feet in height. Fences between twenty-five feet of the right of way and the first supporting member of the main structure shall not exceed five feet in height. Fences in the side yard shall not exceed five feet in height.
 - c) In the rear yard, fences may be erected to a height of six feet.
 - d) Except on properties having frontage on a lake, river, creek or other waterway, double frontage lots shall be fenced in accordance with the following provisions:
 - 1) The yard fronting on the street of the property's postal address shall be fenced in accordance with paragraph 2b hereof.
 - 2) Side yard fences on the interior lots may be erected to a height of six feet.
 - 3) The remaining property shall be considered a rear yard for fencing purposes, except that in the twenty-five feet or less from the rear street right of way, fences shall not exceed four feet in height. Further, no fence on the rear yard shall exceed four feet in height any closer to the street than the front yard limit of an adjacent lot.
 - e) Provisions for fences on corner lots in any residential district shall be the same as provided for this subsection, with the exception that a five-foot fence may not be located any closer to the street than the front yard limit of an adjacent lot.
 - f) Fences or hedges of a concealment type shall be used to screen open parking spaces if there are more than three such spaces located less than twenty-five feet from the side or rear lot line.

- 2. Commercial, Office and Industrial Districts. In commercial, office and industrial districts:
 - a) Fences or hedges of a concealment type shall be erected on the common lot line whenever such lot line separates a commercial, office or industrial district from a residential district, and shall be installed concurrently with the commercial, office or industrial use of the land or building. Such fence shall be not less than five feet in height nor more than eight feet in height. The fence or hedge design shall be submitted to the Building Inspection Department with the permit for review and approval.
 - b) Storage yards for motor vehicles for salvage shall be governed by Section 29.7 and Section 29.8.

29:10:6 Swimming Pools; Property; Recreational Sites:

- 1. Swimming Pools. Fences around swimming pools must meet the requirements of the law of all other governmental units. Such fences must be constructed to a minimum of four feet in height, may not be of split rail design and must completely enclose the pool, with all gates

comply with such an order within the stipulated time limit. An appeal from such notice and order must be taken within the fourteen - day period or abatement procedures may be taken by the Village, with any expense incurred chargeable to the property as a single lot assessment.

29:10:9 Notices:

The notice required in Section 12:10:8 shall be in writing and shall be deemed proper and served upon the owner, agent or person in control of the property upon which a fence is located when sent by certified United States mail, return receipt requested, with such receipt being binding as to the date of service. If the same is returned by the United States Postal Service because of its inability to make delivery thereof, the date of service shall be the date the notice is returned to the sender.

29:10:10 Equitable Remedies:

The penalty provided in Section 29:10:12 shall not preclude the application of any other remedy available in law or in equity to prevent or remedy a violation of any of the provisions of this section.

29:10:11 Appeals:

Any person who directly or adversely affected by a decision or order of the Property Use Administrator may appeal, in writing, by petition, to the Village of Newberry Board of Appeals.

29:10:12 Penalty:

Whoever violates or fails to comply with any of the provisions of this section is responsible for a civil infraction and shall be fined not more than five hundred dollars (\$500.00).