

ORDINANCE NUMBER 128

FENCE ORDINANCE

The Village Board of the Village of Marquette in session duly begun on the 15th day of November, 2021, does hereby ordain as follows:

Section One: Definitions: For the purpose of this ordinance, certain terms are herewith defined as follows:

- a. Adjacent Grade: Adjacent grade shall be construed as the average grade measured at a point three feet on each side of the fence. In the case of a fence on a retaining wall, adjacent grade shall be the grade of the top of the wall.
- b. Fence: Any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, encircling either wholly or any portion of any area.
- c. Height: The average distance between the top element in the fence and the adjacent grade over a straight section of fence with no corners.
- d. Protective Measures Fence: A fence erected for the express purpose of protecting an enclosed area and the property therein, or a fence intended to deny access to a dangerous property or location.

Section Two: Requirements: It shall be unlawful for any person, firm, or corporation to construct or cause to have constructed any fence upon any property within the corporate limits of the Village of Marquette, except in accordance with the requirements and restrictions herein provided.

Section Three: Permit: Any person desiring to build or cause to be built a fence upon property within the corporate limits of the Village of Marquette shall first apply to the Village Building Inspector for a permit to do so. Application for such permit shall contain any and all information, including drawings, required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this ordinance or the laws of the State of Wisconsin. Any permit issued under the provisions of this ordinance in which construction has not been completed within six (6) months from the date of issuance, shall expire. Permit extensions may be granted by the Building Inspector or not to exceed one (1), six (6) month extension. Permit fees shall be set by the Village Board annually.

Section Four: Height Requirements:

- a. Height: Fences shall not exceed six feet in height.
Exceptions – Where a fence is within 10 feet of an adjoining lot containing a one- or two-family dwelling; it shall not exceed four feet in height between the rear line of that dwelling and its front property line. On the street sides or corner lots, a fence may not exceed four feet in height between the rear of the dwelling and corner on either street frontage. If the adjoining lot is vacant but could contain a one- or two-family dwelling, the fence shall not exceed four feet in height between the rear yard line and the front property line. A fence in a required front yard may not exceed four feet in height.

- b. Construction: A six-foot-high fence may be of solid construction. A fence limited to four feet may not have more than 50% of the fence area of solid matter or of closed construction. Exception – A screening fence authorized or required by Village ordinance administrative board or official, or by State law may be of solid construction.

Section Five: Requirements applicable to all fences:

- a. All fences must be located on the private property of the person, firm, or corporation constructing the fence, and shall not extend toward the street beyond the front property line.
- b. Fences shall be constructed with boards, chain link construction, or other suitable material firmly connected to posts sunk in the soil at least two feet or more as necessary to properly support the fence.
- c. Except where partition fences between two properties may be erected by written agreement between the owners thereof, the boards, chain link or other material used in the building of a fence shall be fixed to that side of the posts nearest to the property line.
- d. No fence shall be constructed, maintained, or placed on any property in the Village of Marquette of metal construction or otherwise, which is charged or connected with an electrical current in such manner as to transmit said current to persons, animals, or things which intentionally or unintentionally might come in contact with it.
- e. Barbed wire is prohibited in the Village of Marquette except as permitted by the Village Board on approved protective measures fences.
- f. Where a fence is made up of individual strands of wire, rope, or similar material smaller than one inch in width, thickness, or diameter, the strands must be strung, between posts, parallel with the grade of the land, must be evenly spaced between the top and bottom of the posts, and must be no more than six inches apart.
- g. No fence located at a street intersection may exceed three feet in height within a clear vision triangle formed by measuring 25 feet along each property line from the corner of the right of way.
- h. Concertina wire, and similar types of fences with sharp edges designed to injure, are prohibited in the Village of Marquette.

Section Six: Special Purpose Fences:

- a. Swimming Pools: All swimming pools with a water depth of two feet or greater at any point shall be enclosed with a six-foot-high fence, not closer than four feet from the pool's edge on any side. Gates in the fence shall have a self-latching catch or lock located not closer to the grade than four feet and otherwise made inaccessible from the outside to small children.
- b. Protective Measures Fence: A protective measures fence may only be erected upon a finding by the Village Building Inspector and approved by the Village Board of the need for such fence. The Board's established procedures for filing fee, notice, and hearing shall be followed. The applicant does not need to demonstrate hardship, only the need for the fence. In approving such a fence, the Board shall determine that the definition of a protective measures fence is met and that there is no reasonable alternative to the erection of the fence. A protective measures fence shall not exceed the height deemed appropriate by the Village Board. The owner of a protective measures fence

may be granted permission to erect necessary and reasonable barriers along the uppermost edge of such fence including barbed wire.

Section Seven: Maintenance of Nuisances: Fences must be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise, imperils life or property, shall be deemed a nuisance. The Village Board or Building Inspector shall notify the owner of the property on which such a fence is located of the existence of such a nuisance. The owner must then abate said nuisance within six days after receiving such notice. In the case of immediate danger to life or property the Village Board may require immediate abatement.

Section Eight: Fences: Fences containing barbed wire, concertina or similar wire, individual strand fences not meeting the spacing requirements of section five, and electric fences are hereby declared hazardous to public safety. The Village Board may order the removal of such fences. Exception – barbed wire which is part of a protective measurers fence approved under this or a previous ordinance is exempt from this requirement.

Section Nine: Appeals: Upon appeal in writing by the owner or owner's agent of any property, the Village Board of the Village of Marquette, after notice and a hearing in accordance with the established procedure of the Board, may in its sound discretion and in the interests of the public health, safety and welfare, reduce or remit the requirements of this ordinance in individual cases. The Board may not permit a kind of fence which is forbidden by this ordinance.

Section Ten: Repealing Clause: All ordinances or part of ordinances conflicting with the provisions of this ordinance are hereby repealed.

Section Eleven: Clause: If any section, subsection, sentence, clause, or phrase of this ordinance may, for any reason, be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section Twelve: Cost of Abatement: In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of an illegal fence, the cost of abating an illegal fence by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the illegal fence such cost shall be assessed against the real estate as a special charge.

Article Thirteen: Penalty Provision: Any person who shall violate any provision of this ordinance, upon conviction, shall forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution, including reasonable attorney's fees and all other costs incurred by the Village and any costs of abatement as described in Section Twelve above. Each violation and each day of a violation continues or occurs shall constitute as a separate offense. Furthermore, the Village shall be permitted to withhold the issuance of licenses, authorities, grants or permits until the illegal fence has been abated and all penalties and costs satisfied.

Section Fourteen: This ordinance shall take effect from and after its passage and publication as required by law.

Roll Call Ayes 3 Nays 0 Absent 0 Abstain

Introduced by:

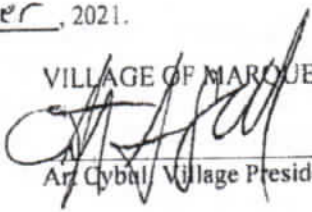
Peter C. Michalos

Introduced by:

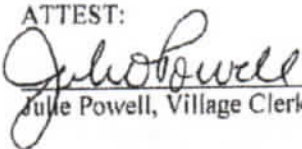
[Signature]

APPROVED this 15th day of November, 2021.

VILLAGE OF MARQUETTE


Art Cybul, Village President

ATTEST:


Julie Powell, Village Clerk

APPROVED AS TO FORM:


Daniel D. Sondalle, Village Attorney

Published: _____