

# STAFF REPORT

<b>MEMO DATE:</b>	December 29, 2021
<b>TO:</b>	Village Board of Trustees
<b>FROM:</b>	JJ Larson –Director of Public Works & Utilities/Deputy Administrator
<b>RE:</b>	<b>Pool Fence/Cover Requirements</b>

## BACKGROUND

A resident requested modification of Village Ordinance §325-88(J)1, which requires that all outdoor, in-ground pools require "...a fence or other solid structure not less than five feet in height completely enclosing the pool..." The resident's request is that a cover could be allowed in lieu of installing a fence. The full text of the current ordinance reads:

### *J. Pool fences.*

*(1) In-ground pools. All outdoor, in-ground swimming pools shall have a fence or other solid structure not less than five feet in height completely enclosing the pool with no opening therein (other than doors or gates) larger than four inches in a horizontal dimension. Fences with horizontal openings larger than four inches will be permitted if the vertical openings in the fence are not greater than one inch and the fence is considered by the Building Inspector to be nonclimbable. All gates or doors opening through the enclosure shall be kept securely closed and locked at all times when the pool is not in actual use. Gates shall be equipped with self-closing hinges and a latch that is intended to discourage unauthorized entry by small children.*

I reached out to area municipalities and have a brief summary of what other communities require.

## SUMMARY OF AREA COMMUNITIES

Three area municipalities remain similar to the current Village ordinance in that a fence, specifically, is required for in-ground pools. Cross Plains, Black Earth and Marshall.

### **Cross Plains – Fence required**

Staff commented, "...recently received a request to allow for covers in lieu of a fence, but staff and the Plan Commission were adamant about keeping a fence due to added benefits (distance, mechanical failure, user error/forgetfulness, etc.)"

### **Black Earth – Fence required**

An enclosure at least 48 inches high and a minimum of three feet from the pool of such construction as will make access difficult shall completely enclose the pool. Access shall be through self-closing and latching gates with a locking device and shall be kept locked when the pool is not in use.

### **Marshall – Fence required**

Pools within the scope of this Section which are not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than six (6) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.

Seven other area municipalities have provisions allowing "...a cover or other protective device" with specific weight and securing requirements. Waunakee, Sauk City, McFarland, Monona, Westport, Windsor and DeForest. The language in these ordinances is almost identical to one another.

#### **Waunakee – Fence or Cover**

Pools or outdoor hot tubs within the scope of this section that are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool or shall have a cover or other protective device over such 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 or protective device shall be securely fastened in place at all times when the swimming pool or outdoor hot tub is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four feet in height and so constructed as not to have voids, holes, or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

#### **Sauk City – Fence or Cover**

Pools within the scope of this chapter which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than six feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

#### **McFarland – Fence or Cover**

Pools within the scope of this Section that are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

#### **Monona – Fence or Cover**

Pools within the scope of this section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

#### **Westport – Fence or Cover**

Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing two hundred fifty (250) pounds. Such cover or

protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four (4) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.

#### **Windsor – Fence or Cover**

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 self-closing, 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.

#### **DeForest – Fence or Cover**

1. A fence or wall of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than four (4) feet in height, except the Building Inspector may require a minimum of six (6) feet in height upon a determination that the selected fence design will facilitate climbing. Such fence shall be so constructed as not to have voids, holes, or openings larger than four (4) inches in one dimension. Gates or doors shall be of similar height to the remainder of the fence and shall be kept locked while the pool is not in actual use.

2. A raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top and secured access to such deck.

3. A pool cover or other protective device of such a design and material of sufficient strength to prevent access to the pool. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes