

ARTICLE IX.

FENCES

Sec. 6-124. Definition.

For the purposes of this article "fence" shall mean any wall or structure of any material, the purpose of which is to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, enclose, screen, restrict access to, or decorate any lot, building or structure.

Sec. 6-125. Permit required; applications; fees.

No fence shall be constructed within the city without the owner or person in control of such premises, or his agent or contractor, having secured a permit therefore from the building official of the city. Applications shall be made and a permit issued on forms promulgated by the code official for such purpose. The fees for such permits shall be as established by resolution of the city.

Sec. 6-126. Construction of fences in the required front yard.

No fence shall be constructed in the required front yard of a residentially zoned area or of a tract or parcel of land adjacent to I-30 without first being granted a special permit by the city council. The city council may, after receiving recommendations from the planning and zoning commission, authorize the issuance of a special permit for the construction of a front yard fence subject to the provisions hereof. The city council, in considering and determining action on any request for a special permit, may require from the applicant plans, drawings, and other information concerning the proposed front yard fence. The city council may establish conditions of construction of any fence for which a special permit is authorized. However, no front yard fence proposed in a residential subdivision may be constructed without complying with any approved active deed restrictions for the subdivision.

- Exception:
- (a) Model homes meeting the requirements as follows:
 - (1) Maximum height of front yard fence not to exceed forty-two (42) inches.
 - (2) No opaque fences allowed in the front yard, must be fifty percent (50%) see-through.
 - (3) Fence must be architecturally harmonious with the development and of ornamental iron, picket, vinyl, or split rail.
 - (4) These fences are only temporary and must be removed, or seek city council approval at such time permanent residents will be established.
 - (b) Single Family – Estate (SF-E) meeting the requirements as follows:
 - (1) No opaque fences allowed in the front yard, must be fifty percent (50%) see-through.
 - (2) Front yard fences shall be no more than forty-eight (48) inches in height.

- (3) Front yard fences shall be architecturally harmonious with the development, such as split rail, painted steel pipe, vinyl, or wrought iron.

No fence shall be placed in the required front yard of a residentially zoned area in excess of forty-two (42) inches in height, or in a non-residentially zoned area in excess of eight (8) feet in height and shall be constructed of wood or decorative wrought iron. No opaque fences will be allowed in the required front yard.

Sec. 6-127. Standards, specifications, prohibitions.

The following regulations shall apply to the construction of fences within the city:

- (a) No fence, guy wire, brace, light standard, sign, vee arm barbed wire base and arm, or any structure attached to a fence shall protrude over any property line.
- (b) No chain link fence shall be allowed within ten (10) feet of the property lines unless completely screened from adjacent public areas and properties by either structure or solid landscape screening.
- (c) Pre-cast solid fencing shall require special approval by the Planning and Zoning Commission.
- (d) Fence height requirements. All fence heights shall be measured vertically from the inside natural or mean grade elevation of the yard.
 - (1) No residential fence shall exceed eight (8) feet in height.
 - (2) No nonresidential fence shall exceed twelve (12) feet in height.
- (e) Fences may be placed in the required yards, as regulated herein, and meeting the following conditions:
 - (1) Corner lots in residentially zoned areas which have rear lot lines adjacent to alleys, or other rear lot lines, fences may be constructed not to exceed eight (8) feet in height along the side yard and rear yard lines as indicated on Appendix B, attached hereto.
 - (2) Corner lots in residentially zoned areas where the rear lot line is adjacent to a side lot line of an adjoining lot, only fences not exceeding forty-two (42) inches in height and meeting the material requirements of a front yard fence in residentially zoned areas shall be constructed beyond the side building line as indicated on Appendix C, attached hereto. Fences constructed on or behind the building line shall not exceed eight (8) feet in height.
 - (3) Where an alley fifteen (15) feet or greater in width intervenes between the above described lots, or a natural barrier of fifteen (15) feet or greater in width exists, such as creeks, railroads or easements where fences are prohibited, a fence not exceeding eight (8) feet in height may be erected on the street side of the property line, indicated on Appendix D, attached hereto.
 - (4) Through lots in residentially zoned areas with street frontage on both the front and rear property line – fences may be constructed not to exceed

eight (8) feet in height along the side yard and rear yard lines on through lots where all lots within the block have a rear yard along the same street frontage, as indicated on Appendix E - Example 1.

- (5) When both front and rear yards are located along the same street frontage within a block, fences constructed within the designated rear yard shall not exceed forty-two (42) inches in height and shall meet the material requirements of a front yard fence in residentially zoned areas, as indicated on Appendix E, Example 2, unless a variance to this request is granted by the zoning board of adjustment, as provided in section 6-116.
- (f) Fences may be constructed of materials subject to the provisions hereof and the other codes and ordinances of the city.
- (g) Solid wood fencing must be constructed using metal post set in concrete, or brick or stone columns; fences that are greater than twenty-five percent (25%) masonry, shall be considered solid fencing.
- (h) It shall be unlawful for any person to construct or maintain any electrical fence or electrical attachment of any type, dimension, or composition on any fence within the city. Barbed wire fences may be used without restrictions when in conjunction with agricultural and related activities; provided, however, no barbed wire fence shall be located on any platted property zoned for single-family use. In areas where barbed wire fences are allowed, arms or base and arms with barbed wire not to exceed three (3) strands will be permitted. Such attachments will be considered part of the fence for the purposes of determining the maximum height of said fence.
- (i) The code official may permit temporary fencing for the purpose of protection or securing of construction sites. The duration of use must be stated in the application for permit. Barbed wire fences may be allowed for temporary use upon approval of the location, height, and construction by the building official.

Sec. 6-128. Swimming Pool, Spa and Hot Tub / Barrier Requirements

1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).
2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.
3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there

are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

Exception: Boards with a minimum 60-degree angle, cut and placed at the top of the horizontal fence members, may be used on existing fences that will become pool barriers. This exception does not apply to fences adjacent to public right of way.

5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.
6. Maximum mesh size for chain link fences shall be a 2.25-inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom, which reduce the openings to not more than 1.75 inches (44 mm).
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).
8. Access gates shall comply with the requirements of RAG105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:
 - 8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and
 - 8.2. The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.
9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:
 - 9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or
 - 9.2. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/ or its screen, if present, are opened. The alarm shall be listed in accordance with UL 2017. The audible alarm shall activate within 7 seconds and sound continuously for a minimum of 30 seconds immediately after the door and/or its screen, if present are opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening. Deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or
 - 9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the

degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.

10. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, then:

10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access, or

10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of RAG105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

11. Fence barrier exceptions for spas or hot tubs:

Safety covers for spas and hot tubs must comply with ASTM F 1346-91.

11.1. There should be a means of fastening the safety cover to the hot tub or spa, such as key locks, combination locks, special tool, or similar devices.

11.2. The safety cover should have a label that provides a warning and message regarding the risk of drowning.

11.3. The cover should have been tested to demonstrate that it is capable of supporting the weight of one child (50 pounds) and one adult (225 pounds).

11.4. There shall be no openings in the cover itself or at any point where the cover joins the surface of the hot tub or spa that would not allow a 4-inch sphere to pass through.

11.5. Safety covers are to be installed in accordance with the manufacture's instructions.

Sec. 6-129. Visibility Triangles, Public Right of Way Visibility

Fences shall be placed so as to prevent sight restrictions at or near any street or roadway in the city and so as to promote safety for vehicles and pedestrians and provide an open atmosphere. All fence heights shall be measured vertically from the inside natural or mean grade elevation of the yard. Such clear area may be provided by clipping the fence to follow the prescribed setback. When topography prevents a clear view, this bank should be removed.

The following language shall be deleted from A.1.a.:

A. Street/Drive Intersection Visibility Obstruction Triangles- A landscape plan showing the plan of the street on both sides of each proposed drive/street to the proposed development with the grades, curb elevations, proposed street/drive locations, and all items (both natural and man-made) within the visibility triangles as prescribed below shall be provided with all site plans, if they are not on engineering plans that are submitted at the same time. This plan shall show no horizontal or vertical restrictions (either existing or future) within the areas defined below.

1. Obstruction/Interference Triangles-Defined:

No fence, wall screen, billboard, sign, structure, foliage, hedge, tree, bush, shrub, berm, or any other item, either man-made or natural shall be erected, planted, or maintained in such a position or place so as to obstruct or interfere within the following minimum standards; however, on nonresidentially zoned lots, a single pole for mounting a sign may be placed within this area provided the pole does not exceed 12-inches in diameter, and provided every portion of the sign has a minimum height clearance of 9 feet:

- a. Vision at all intersections, which intersect at or near right angles shall be clear at elevations between twenty-four (24) inches and nine (9) feet above the top of the curb elevation, within a triangular area formed by extending the two curb lines from their point of intersection, for the following minimum distances for the applicable intersection, and connecting these points with an imaginary line, thereby making a triangle. If there are no curbs existing, the triangular area shall be formed by extending the property lines from their point of intersection for a distance as prescribed below, and connecting these points with an imaginary line, thereby making a triangle as shown in Appendix F.

Intersection of Two Public Streets — the minimum required distance from the curb shall be 30 feet and the minimum distance from the property line on streets without a curb shall be 20 feet.

Intersection of a Public Street and an Alley — the minimum required distance measured from the property line shall be 15 feet.

Intersection of Private Drive and Public Street — the minimum required distance from the curb shall be 15 feet and the minimum distance from the property line on streets without a curb shall be 10 feet.

- B. Sight Distance Requirements — The City hereby adopts the standards for both vertical and horizontal sight distance requirements set forth in the 1984 Edition of AASHTO Green Book, "A Policy on Geometric Design of Highways and Streets" for the construction of both public street intersections and private drive intersections, unless otherwise approved by the City Engineer. If, in the opinion of the City Engineer, a proposed street or drive intersection may not meet these standards, additional engineering information exhibiting how the standards have been addressed may be required for submission and approval by the City's Engineer.

Sec. 6-130. Inspection upon completion of construction.

Upon completion of a fence constructed under a permit issued by the building official, an inspection shall be made thereof by the building official or his designated representative. If the fence is constructed in accordance with the provisions of this article, the permit, and the application, the building official will issue written notice of acceptance to the permit holder. Any and all fences in the city shall hereafter be constructed under the provisions of this article and existing fences shall be maintained so as to comply with the requirements of this article at all times.

Sec. 6-131. Appeals.

The zoning board of adjustment of the city is hereby authorized, after notice and hearing as required by the comprehensive zoning ordinance of the city, to hear and decide appeals on all fences other than front yard fences in residentially zoned areas where it is alleged there is error in any order, requirement, decision or determination made by the building official in the enforcement of this article, or to permit such variance of the height and placement requirements of this article as it feels will alleviate an unnecessary property hardship resulting from the literal enforcement of the provisions hereof. The board of adjustment shall have no authority to grant variances for front yard fences in residentially zoned areas. The city council is hereby authorized, after notice and public hearing as required by the comprehensive zoning ordinance of the city, to hear and decide on requests for variances to the height requirements of this article as it feels will alleviate an unnecessary property hardship resulting from the literal enforcement of the front yard fence requirements in residentially zoned areas. A modification of the standards established by this article shall not be granted to relieve a self-created personal hardship, nor for financial reason only, nor shall such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this article to other parcels of land in the city.

Sec. 6-132. Exceptions.

The following shall be exceptions to the terms of this article:

- (a) Dikes and retaining walls for the purpose of diverting water and retaining soil shall not be considered fences within the terms of this article.
- (b) Fences existing and in place at the time of the enactment of this article shall be excused from the permit provisions hereof. However, such fences shall be maintained to comply with the provisions hereof. Any such fence or any fence in an area annexed by the city after the effective date hereof shall be subject to the provisions of this article in the event of reconstruction, modification, enlargement, extension, alteration or any construction thereto other than normal maintenance thereof.

Sec. 6-133. Maintenance of fences.

- (a) No person owning, leasing, occupying, or having charge of any premises shall maintain or keep a fence in dilapidated condition that although functional, creates an unsightly condition that substantially detracts from the appearance of the neighborhood.
- (b) Upon becoming aware of conditions set forth in subsection (a), the code enforcement officer shall make a determination as to whether the fence condition is a nuisance and should be abated. If so, the code enforcement officer shall give notice to such person having control of the premises to remedy such condition within ten (10) days, unless good cause can be shown that additional time is needed to rectify the condition.

Secs. 6-134—6-142 Reserved.