

CHAPTER 1171
Fences

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CROSS REFERENCES

Fence defined - see P. & Z. 1123.22
General screening requirements - see P. & Z. 1167.20
Swimming pool fence - see BLDG. 1325.08

1171.01 DEFINITIONS.

- (a) "Fence" means any structure constructed or erected **AND PLACED** to provide a barrier, either physical or visual, for the purpose of protecting property, **PET CONTROL**, providing for security and/or privacy, and to properly contain all activities on the property.
- (b) "Chain link fence" means a fence usually made of metal consisting of loops of wire interconnected in a series of jointed links. In no case shall a chain link fence be considered a decorative open face fence.
- (c) "Commercial fence erector" means an individual or a company qualified to erect, maintain and repair all types of fences covered by these Codified Ordinances and who erects a fence for hire, or as a part of a sales agreement involving home improvement or the sale of fencing material.
- (d) "Decorative open fence" means a fence usually made of wood or vinyl constructed for its beauty or decorative effect, and when viewed at right angles and enclosing the outline of all parts of the fence in its vertical plane, has an open face area of at least fifty percent (50%). Decorative open fences shall include, but not be limited to:
- (1) "Rail" or "split rail fence" means a fence constructed of narrow, whole or split, wooden timbers or vinyl placed horizontally between upright supporting posts.
 - (2) "Picket fence" means a fence made of upright poles or slats that alternate with an open face.
 - (3) "Iron" or "steel fence" means a fence constructed of narrow poles that are placed vertically and horizontally to resemble a fence that would be considered to be an antique or historical.
- ~~(e) "Invisible fence" means a fence usually constructed to contain animals and consists of a buried wire underground that emits a static electric shock above ground to an animal, with a special collar, that approaches the buried wire.~~
- (f) "Nonenclosing fence" means a fence which allows at least thirty percent (30%) open perimeter around the area visually defined.
- (g) "Privacy fence" means a fence made to inhibit public view and provide seclusion and, when viewed at right angles and enclosing the outline of all parts of the fence in its

vertical plane, has an open face of less than fifty percent (50%). "Privacy fences" shall include, but not be limited to:

- (1) "Basket weave" or "woven fence" means a fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket.
- (2) "Louver", "ventilating", "shadow box" or "stockade" fence means a fence made of a series of slats placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.
(Ord. 205-94. Passed 12-20-94.)

~~(H) "PUBLIC SWIMMING POOL" MEANS ANY INDOOR OR OUTDOOR STRUCTURE CHAMBER OR TANK CONTAINING A BODY OF WATER FOR SWIMMING, DIVING, OR BATHING THAT IS INTENDED TO BE USED COLLECTIVELY FOR SWIMMING, DIVING, OR BATHING AND IS OPERATED BY ANY PERSON WHETHER AS THE OWNER, LESSEE, OPERATOR, LICENSEE, OR CONCESSIONAIRE, REGARDLESS OF WHETHER OR NOT A FEE IS CHARGED FOR USE.~~

~~EXCEPTION: PUBLIC SWIMMING POOL DOES NOT INCLUDE ANY PUBLIC BATHING AREA, PRIVATE RESIDENTIAL SWIMMING POOL OR HOT TUB, OR ANY STRUCTURE, CHAMBER AND TANK THAT IS EASILY PORTABLE WHEN EMPTY WITH A CAPACITY OF NO MORE THAN ONE HUNDRED FIFTY GALLONS.~~

- (H) "SWIMMING POOL" MEANS A STRUCTURE, EITHER PERMANENT OR PORTABLE, FILLED OR CAPABLE OF BEING FILLED WITH WATER TO A DEPTH OF THIRTY OR MORE INCHES AT ANY POINT THEREIN AND HAVING A WATER SURFACE AREA OF 160 SQUARE FEET OR MORE AND USED, OR DESIGNED TO BE USED, FOR SWIMMING OR RECREATIONAL BATHING. SWIMMING POOLS SHALL BE CLASSIFIED AS FOLLOWS:
- A. "PRIVATE SWIMMING POOL" MEANS A SWIMMING POOL USED BY THE OWNER OF THE POOL AND FRIENDS AS AN ADDITIONAL ACCESSORY USE AT A PRIVATE RESIDENCE LOCATED WITHIN A SINGLE FAMILY RESIDENTIAL DISTRICT.
 - B. "REGULATED SWIMMING POOL" MEANS ANY SWIMMING POOL OTHER THAN A PRIVATE SWIMMING POOL, PUBLIC OR SEMI-PUBLIC IN CHARACTER.
 - C. "CLUB SWIMMING POOL" MEANS A REGULATED SWIMMING POOL USED BY ANY GROUP OR INSTITUTION ON A NON-COMMERCIAL BASIS OR ON A MEMBERSHIP BASIS FOR MEMBERS AND FRIENDS ONLY.
 - D. "COMMERCIAL SWIMMING POOL" MEANS A REGULATED SWIMMING POOL WHICH IS LOCATED ON LAND NOT PUBLICLY OWNED AND WHICH IS OPERATED ON A COMMERCIAL BASIS OR PRIMARILY FOR PRIVATE GAIN.

1171.02 PERMITS.

(a) No new fence shall be erected without a permit. Replacement of a fence shall be allowed without a fence permit provided materials, height and location do not vary from existing fence.

(b) Fence permits shall be granted by the Zoning ~~Officer~~ **ADMINISTRATOR** only upon the basis or representation made by clear drawings and specifications indicating the location, kind of material and full dimensions in figures of such fence. Such representation shall be made on forms furnished by the Zoning ~~Officer~~ **ADMINISTRATOR**, signed by the owner of the property and **OR** by the commercial fence erector, if one is to be used.

(c) Commercial fence erectors shall, prior to erection or installation of any fence within the City, assure themselves that the required fence permit has been issued for each job. Failure to have a permit prior to erection or installation of a fence is subject to penalty under Section 1171.99.

(d) No person other than the property owner and/or a commercial fence erector, licensed in the City, shall engage in the business of erecting, maintaining or replacing fences of any type within the City.
(Ord. 205-94. Passed 12-20-94.)

1171.03 FEES.

A permit fee for the erection of a fence as permitted by these Codified Ordinances shall be ten dollars (\$10.00).
(Ord. 205-94. Passed 12-20-94.)

1171.04 FENCE STANDARDS.

- (a) Any fence constructed shall comply with the following standards:
- (1) Fences shall not exceed six feet in height except that which enclosed athletic fields and courts, or defines secure areas for the storage of public property, which shall not exceed twelve feet. Trash containers and/or receptacle screening shall comply with Section 1167.18(c).
 - (2) A fence of permitted height and design may be constructed along or upon common property lines and across any utility easement so as to allow maximum use of the area to be enclosed. Fences placed on utility easements shall provide access to manholes, utility boxes, cleanouts or other apparatus that may be used from time to time for maintenance of the utility. Fences placed on drainage easements shall allow for the proper flow of water. Fences that are being proposed to be placed on utility and/or drainage easements shall require prior approval from the City Engineer.
 - (3) No fence shall have as part of its design or construction metal prongs or spikes, or barbed wire. No fence other than an invisible fence shall have as part of its design or construction an electrified portion.
 - (4) A fence shall not be located within three feet of a utility box, manhole or other apparatus that may be used for maintenance of the utility. However, a gate and/or removable section of fencing may be placed within this three foot restriction if such gate and/or removable section provides sufficient access to the utility box, manhole or other apparatus. When a fence obstructs access to a utility box, manhole or other public apparatus for maintaining utilities, the owner shall be required to remove and replace such fence at his/her expense without remuneration from the City. This section shall not prohibit the City from removing any fence

- located in a utility or drainage easement that obstructs a utility box, manhole or other apparatus or obstructs the proper flow of water.
- (5) Any fence of a permitted height and design shall not extend in the front yard beyond the building setback line. Corner lots shall comply with the following:
 - A. A fence may be located one-half the distance between the required building setback line and the public right of way only in the side yard if the fence is a decorative open fence and does not exceed a height of forty-two inches. Also, the sight triangle requirements of Section 1167.15 shall be met.
 - (6) A decorative open fence shall be permitted in the side and rear yards.
 - A. A decorative open nonenclosing fence not more than forty-two inches in height may be located in front of the required building setback line not more than one-half the distance between the required building setback lines and corresponding street public right-of-way. On corner lots, such fences may not be located so as to encroach upon the required sight triangle area established under Section 1167.15.
 - (7) Privacy and/or chain link fences shall be prohibited in the side and front yards.
 - (8) ~~An invisible fence is permitted as long as it is located behind the front building setback line. A notice not exceeding one square foot in sign area shall be posted on a property containing an invisible fence.~~
 - (9) Any fence constructed between the required building setback line and street public right of way shall not prevent or hinder access to the residence by vehicles and personnel responding to a fire, police or medical emergency.
 - (10) A **PRIVATE** swimming or wading pool constructed within a **SINGLE FAMILY** residential area shall be enclosed by a fence structure conforming to the following requirements:
 - A. For in-ground pools, fencing shall be at least ~~thirty-six~~ **FORTY-EIGHT** inches but not to exceed seventy-two inches in height as measured from grade along the line of the fence as installed.
 - B. For aboveground pools, fencing shall be the same as subsection "A" hereof except that if the sides of the pool are forty-two inches or more above the minimum adjacent grade and the pool is equipped with a removable ladder or a ladder that folds up and locks in an upright position when the pool is not in use, then additional fencing will not be required. A thirty-six inch minimum guardrail conforming to the CABO Code is required for any porch, balcony or raised floor surface located more than thirty inches above the floor or grade below.
 - C. All gates within fencing surrounding swimming pools shall be equipped with a lock operated by a key or combination **AND SHALL BE LOCKED WHEN NOT IN USE.**
 - D. Fencing shall be designed to prevent unauthorized entrance of ~~children and animals~~ into any swimming pool.
 - (11) Temporary snow fences not exceeding forty-eight inches in height may be erected without permit between December 1 of any year and the following March 31 for the purpose of controlling snow drifting. Snow fences may extend beyond or be located in front of the required building setback line not more than one-half the distance between the required building setback line and corresponding street public right of way. On corner lots, snow fences may not be located so as to encroach upon the

required sight triangle area established under Section 1167.15. Snow fences shall not be erected or located that would:

- A. Hinder access to the residence by vehicles and personnel responding to a fire, police or medical emergency; or
 - B. Cause snow to accumulate in a manner which would encroach upon or block any public right of way, hinder proper operation of Municipal snow removal equipment or block access to or cause damage to adjacent properties.
- (12) Fences shall be maintained in good condition, be structurally sound, safe, and attractively finished at all times. Grounds between fences and property lines and between fences shall be well maintained at all times. Any fence shall be designed, constructed and finished so the supporting members thereof shall face the property of the owner of the fence. If a fence does not meet these standards, the owner of the property with the fence shall be subject to the penalty in Section 1171.99. (Ord. 205-94. Passed 12-20-94.)

1171.05 COMMERCIAL AND MULTI-FAMILY DISTRICT FENCES.

(a) All fencing required to separate the several usage districts in the City or as required for screening according to the Planning and Zoning Code or as required by the Planning Commission or Design Review Board shall conform to these specifications as written or as may be modified by the Chief Building Official. All such fencing shall be constructed of quality materials and methods shall conform to generally accepted standards. The height of the fence shall be six feet in height, unless greater height is required by the Planning and Zoning Code or approved otherwise.

Decorative or non-decorative fence not otherwise required by the City shall not be governed by this section, but shall be constructed as described in other sections of the Planning and Zoning Code.

(b) If wood is to be used, it shall be pressure-treated using CAA-C material, cedar or redwood. Wood posts shall be not less than six inches by six inches and shall be buried not less than thirty inches in the ground surrounded by concrete. An inch or more of gravel shall be placed in the bottom of the post hole before installation of the post in order to insulate the wood post from contact with soil but not restrict drainage of ground water. Concrete shall completely surround the post and shall be at least two inches in thickness between the post and the earth. Stringers shall be two inch by six inch wood. Boards shall be one inch by six inches by six feet wood and placed adjacent to each other with not more than one-fourth inch gap between boards. In every case, the "neat" or "finished" side shall face the street or adjacent property. (Ord. 79-96. Passed 4-16-96.)

(C) A REGULATED SWIMMING POOL CONSTRUCTED WITHIN A COMMERCIAL OR MULTI-FAMILY AREA OR OPERATED BY A CIVIC ASSOCIATION OR OTHER COMMUNITY ORGANIZATION SHALL BE ENCLOSED BY A FENCE STRUCTURE CONFORMING TO THE FOLLOWING REQUIREMENTS:

- A. REGULATED SWIMMING POOLS SHALL BE PROVIDED WITH AN ENCLOSURE SURROUNDING THE POOL AREA.
- B. THE ENCLOSURE SHALL EXTEND NOT LESS THAN SIX (6) FEET ABOVE THE GROUND. ALL GATES SHALL BE SELF-CLOSING AND SELF-LATCHING WITH LATCHES PLACED AT LEAST FOUR (4) FEET ABOVE THE GROUND. *HOWEVER, IF SAID GATE IS AN ATTENDED GATE WHILE POOL IS OPEN, SAID GATE SHALL NOT NEED TO BE SELF CLOSING AND SELF LATCHING.* GATES SHALL BE LOCKED DURING THE OFF SEASON AND IN SEASON CLOSED HOURS.

- C. **ENCLOSURE FENCES SHALL BE CONSTRUCTED TO PROHIBIT THE PASSAGE OF A SPHERE LARGER THAN FOUR (4) INCHES IN DIAMETER THROUGH ANY OPENING OR UNDER THE FENCE. FENCES SHALL BE DESIGNED TO WITHSTAND A HORIZONTAL CONCENTRATED LOAD OF TWO HUNDRED (200) POUNDS APPLIED ON A ONE SQUARE FOOT AREA AT ANY POINT OF THE FENCE.**
- D. **THE USE OF A POOL COVER, CAPABLE OF SUPPORTING AT LEAST THREE HUNDRED (300) POUNDS, ~~OR OTHER PROTECTIVE DEVICE APPROVED BY THE ZONING ADMINISTRATOR~~ SHALL BE ENCOURAGED DURING ANY PERIOD OF TIME WHEN THE POOL IS CLOSED FOR MORE THAN SEVENTY-TWO (72) CONSECUTIVE HOURS OR DURING ANY OFF SEASON, IN ADDITION TO THE PROTECTION AFFORDED BY THE ENCLOSURE, GATE, AND LATCH DESCRIBED HEREIN.**

1171.06 EXISTING REGULATED SWIMMING POOLS.

OWNERS OF EXISTING REGULATED SWIMMING POOLS SHALL BE NOTIFIED, IN WRITING, BY THE ZONING ADMINISTRATOR OF THE CITY OF THE EXISTENCE OF THE REQUIREMENTS CONTAINED IN THIS CHAPTER, AND ALL OWNERS SHALL BRING REGULATED SWIMMING POOLS UP TO THE STANDARDS CONTAINED IN THIS CHAPTER AT SUCH TIME THAT REPLACEMENTS OR RENOVATIONS OCCUR, OR NO LATER THAN APRIL 1, 2001.

1171.99 PENALTY.

Any person, firm, corporation or other entity violating any provision, amendment or supplement of this chapter, or failing to obey any lawful order of the Zoning ~~Officer~~ **ADMINISTRATOR** issued in pursuance thereof, shall be deemed guilty of a misdemeanor in the third degree. Each and every day during which such violation of any provision, amendment or supplement of this chapter occurs or each and every day during which there is a failure to obey any lawful order of the Zoning Officer may be deemed a separate offense. (Ord. 205-94. Passed 12-20-94.)