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**§ 155.351 FENCES; PERMITS AND LOCATION.**

(A) *Permit required.* No person, firm or corporation, except on a farm and related to farming, shall hereafter construct or cause to be constructed or erected any fence, wall or similar barrier in excess of six feet in height, as measured from the ground to the top of the fence with an exception of a two-inch ground clearance, without first obtaining a permit from the city. Any fence, wall or similar barrier requiring a building permit shall be constructed or erected in accordance with the provisions of the Minnesota State Building Code.

(B) *Locations.* All boundary fences shall be located entirely upon the private property of the persons, firm or corporation constructing or causing the construction of the fence unless the owner of the property adjoining agrees, in writing, that the fence may be erected on the division line of the respective properties. The building inspector may require the property owner desiring to erect a fence for which a permit is required to establish the boundary lines of his or her property by a survey thereof to be made by any registered land surveyor.

(C) *Fence regulations.* A fence is a public nuisance and prohibited accordingly if it does not comply with the following requirements:

(1) The fence shall be firmly fastened and anchored in order that it is not leaning or otherwise in the stage of collapse.

(2) The fence shall be maintained in sound and good repair and free from deterioration, loose or rotting pieces, or holes, breaks, or gaps not otherwise intended in the original design of the fence. The fence shall be free from any defects or condition which makes the fence hazardous.

(3) All exterior wood surfaces of any fence, other than decay resistant woods, shall be protected from the elements by paint or other protective surface coating or treatment, which shall be maintained in good repair to provide the intended protection from the elements.

(4) No fence section shall have peeling, cracked, chipped or otherwise deteriorated surface finish, including but not limited to: paint or other protective coating or treatment, on more than 20% of any one linear ten-foot section of the fence.

(5) Any link fence, where permitted, shall be constructed and maintained in such a manner that no barbed ends be located at the top of the fence.

(6) No fence made of any material which is intended for the purpose of temporary fencing, such as snow fencing or erosion control or sedimentation fencing, shall be permitted on any property for a period in excess of 30 days within any twelve-month period, except in connection with a development, construction or land-disturbing activity project requiring such temporary fencing or as otherwise approved by the city for good cause.

(D) *Residential district fences.* In all areas of the city zoned residential and not a farm, no boundary line fence shall be erected or maintained more than 3½ feet in height except that:

(1) Fences on all corner lots erected within 30 feet of the intersecting curb line shall be subject to § 155.335.

(2) Fences may be constructed to a height of eight feet on the side property line from the rear lot line to the front setback line of the principal building.

(3) Fences along any rear property line which is also the rear property line of an abutting lot or which abuts a street right-of-way shall not exceed eight feet in height.

(4) Fences along a rear property line which constitutes the side lot line of an abutting lot shall not exceed eight feet in height and shall not exceed 3½ feet in height within a triangular area described as follows: beginning at the intersection of the common rear/side lot line and the abutting lot's front lot line; thence 17 feet along the common rear/side lot line; thence diagonally to a point 17 feet from the point of beginning along the side street lot line; thence to the point of beginning.

(5) Fences on side street lot lines shall not be more than eight feet in height and shall not extend toward the front lot line past a point on the lot line where the front building line of the principal building projected would intersect and, if the adjacent lot fronts on the same street as the aforementioned side street lot line, the fence shall not exceed 3½ feet in height within the triangular area described in subsection (4) above.

(E) *Business, industrial and institutional district fences.* Property line fences within all business, industrial or institutional districts shall not exceed eight feet in height unless otherwise permitted by the City Council.

(F) *Barbed wire and electric fences.* Barbed wire fences shall not be permitted in any district except agricultural unless specifically permitted under conditions set forth by the City Council. Electric fences shall not be permitted in any district except in agricultural and only when related to farming or in other districts in which a farm is located and only when related to farming and not used as a boundary fence. An underground electronic or electric boundary marker systems used for containment of domestic animals, such as "invisible fence," shall not constitute an electric fence for purposes of this paragraph.

(G) *Special purpose fences.* Fences for special purposes, such as the Zoological Garden perimeter fence, may be permitted in any use district by the City Council. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

('81 Code, § A1-58) (Ord. 291, passed 4-21-83; Am. Ord. 704, passed 12-13-01)

## **§ 155.352 SWIMMING POOLS.**

### *(A) Barrier requirements.*

(1) A minimum 48-inch high barrier, which completely surrounds and restricts access to the swimming pool, shall be installed and maintained in a sound and safe condition around a swimming pool or around the tract of land where the pool is located. The barrier may consist of a security fence, freestanding wall, a building's wall, or combination thereof. When the swimming pool is an aboveground swimming pool of which the wall(s) of the swimming pool are greater than 48 inches from the ground to the top of the pool wall(s) at every point around the pool, then no barrier is required, but the means of access into the swimming pool (e.g. ladder or steps), shall be secured, locked or removed to prevent access during any period of time that the pool is unattended or not in use. Spas or hot tubs with a locking safety cover which complies with ASTM Standard F 1346-91 shall exempt from these barrier requirements, provided they are equipped with a safety locking cover which is locked at all time during which the spa or hot tub is not in use. Storable swimming or wading pools shall be exempt from this section provided all means of access into the pool are removed and the pool is covered when it is not attended.

(2) The top of the barrier shall be at least 48 inches 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 not allow passage of a four-inch-diameter-sphere. 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 not allow passage of a four-inch-diameter sphere.

(3) Openings in the barrier shall not allow passage of a four-inch-diameter sphere.

(4) To prevent a person from scaling a solid barrier, which does not have openings, such as a masonry or stone wall, such barrier wall shall not contain indentations or protrusions in excess of 1.25 square inches except for normal construction tolerances and tooled masonry joints.

(5) Where the barrier is composed of horizontal and vertical members and the distance between the tops of each of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.

(6) Where the barrier is composed of horizontal and vertical members and the distance between the tops of each of the horizontal members is 45 inches or more, spacing between vertical members shall not exceed four inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.

(7) Maximum mesh size for chain link fences shall be a 2.25-inch square unless the fence is provided with slats fastened at the top or the bottom of which reduce the openings to not more than 1.75 inches.

(8) 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.

(9) The Building Inspector shall approve the plans and specifications for the barrier prior to its installation. The barrier shall be equipped with doors or gates which are self-closing and self-latching with the latch to be located a minimum of 42 inches above ground level and equipped with a lock which shall be kept locked when the swimming pool is unattended.

(B) *Setbacks.*

(1) Swimming pools shall be set back a minimum of five feet from any side or rear lot line as measured from the nearest edge of the slope around the pool or perimeter walk.

(2) Swimming pools shall not be located in an easement of record as measured from the nearest edge of the slope around the pool or perimeter walk.

(3) Swimming pools shall not be permitted in the front yard or side yard in the area between the street right-of-way line and the minimum required building setback line.

(C) *Drainage.* Swimming pools which raise the existing elevation more than eight inches shall be reviewed by the City Engineer who shall have the right to refuse the permit for construction of same if, in his opinion, adjoining properties will be adversely affected because of alteration of drainage patterns.

(D) *Permit required.* No person shall construct, install or locate a swimming pool, as defined herein, without first obtaining a swimming pool permit from the city. Storable swimming or wading pools are not required to obtain a pool permit. The applicant for a swimming pool permit shall submit any information as the Building Inspector shall deem necessary. An application for a Natural Resources Management Permit shall also be submitted if required under the Natural Resources Management regulations in this Code.

(E) Storable swimming and wading pools must be disassembled and stored between the dates November 1 and April 1 of each year.

('81 Code, § A1-59) (Ord. 291, passed 4-21-83; Am. Ord. 755, passed 6-24-04; Am. Ord. 756, passed 7-8-04; Am. Ord. 768, passed 2-24-05)