

**AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, ADOPTING ARTICLE IX (FENCE REGULATIONS) TO CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS) OF THE FRISCO CODE OF ORDINANCES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

WHEREAS, the City Council of the City of Frisco, Texas (the "City Council") has investigated and determined that it is necessary to regulate fences within the city limit; and

WHEREAS, the City Council has investigated and determined that it will be advantageous, beneficial and in the best interest of the citizens of the City of Frisco, Texas ("Frisco") to adopt fence regulations to Chapter 18 (Buildings and Building Regulations to Frisco's Code of Ordinances; and

WHEREAS, the City Council has determined that it is necessary to enact this Ordinance to protect the health and welfare of its residents; and

WHEREAS, the City Council has investigated and determined that in order to most effectively make the additions, deletions and amendments necessary to Frisco's Code of Ordinances, Chapter 18 (Buildings and Building Regulations), it is in the best interest of the citizens of Frisco to adopt this ordinance by adding Article IX (Fence Regulations).

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:**

**SECTION 1: Findings Incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2: Amending Frisco's Code of Ordinances, Chapter 18 (Buildings and Building Regulations) by adopting Article IX (Fence Regulations).** Chapter 18 (Buildings and Building Regulation) of Frisco's Code of Ordinances is hereby amended for the sole purpose of adopting new fence regulations as set forth in **Exhibit "A"**, attached hereto and incorporated herein for all purposes.

**SECTION 3: Penalty Provision.** Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00) if the violation relates to the public health, sanitation or dumping of refuse, otherwise the fine shall be a sum not

exceeding Five Hundred Dollars (\$500.00). The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 4: Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

**SECTION 5: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 6: Effective Date.** This Ordinance shall become effective from and after its adoption and publication as required by law the City Charter and by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS,** on this 6th day of August, 2012.



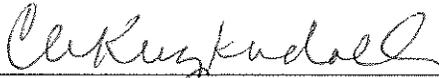
\_\_\_\_\_  
Maher Maso, Mayor

**ATTESTED AND CORRECTLY RECORDED:**

  
\_\_\_\_\_  
Jenny Page, City Secretary



**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Abernathy, Roedel, Boyd & Joplin, P.C.  
Courtney A. Kuykendall, City Attorneys

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## Article IX. FENCE ORDINANCE

### Sec. 18-472 Purpose.

This Chapter provides uniform standards for the erection and maintenance of fences. All fences in this Chapter shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote health, safety, welfare, convenience and enjoyment of the public, and in part to achieve the following:

**Safety.** To promote the safety of persons and property by providing that fences do not:

- A. Create a hazard due to collapse, fire, decay or abandonment;
- B. Obstruct firefighting or police observation ability;
- C. Create traffic hazards by confusing or distracting pedestrians or motorists; or
- D. Become obstacles that hinder the ability of pedestrians, bicyclists or motorists to read traffic Signs.
- E. Improve the long term sustainability of residential structures.

### Sec. 18-473 Jurisdiction.

This article shall apply in all zoning districts within the city.

### Sec. 18-474 Definitions.

For the purposes of this Ordinance, the following words and phrases will have the meanings respectively ascribed to them by this section:

**Approved fence materials** - materials normally manufactured for, used as, and recognized as, fencing materials such as: wrought iron or other decorative metals suitable for the construction of fences, fired masonry, concrete, stone, metal tubing, wood planks, chain link and vinyl composite manufactured specifically as fencing materials. Fence materials must also be materials approved for exterior use that are weather and decay-resistant. The provisions of this Ordinance are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved by the Chief Building Official, or his designee. An alternative material, design or method of construction shall be approved where the Chief Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Ordinance in quality, strength, effectiveness, fire resistance, durability and safety.

**Chief Building Official** - the City of Frisco Chief Building Official of Development Services or designee.

**City** - the City of Frisco.

**Code** - the Code of Ordinances of the City of Frisco, Texas.

**Dilapidated fence** - a fence which is decayed, deteriorated, or has fallen into partial ruin.

**Director of Engineering Services** – The person(s) so designated by the City Manager to provide oversight for and have responsibility of the Engineering Services Department.

**Easement** - A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another, and may be dedicated by plat or implied by right. It is either for the benefit of appurtenant land such as for the right to cross, or egress, such a public utility easement, or in specific, such as an exclusive utility easement. An easement may or may not have descriptive metes and bounds.

**Fence**- An artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of protection, a buffer, a decorative element, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this Code, regulations governing the height, location and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence. A fence is any part of a fence including the base, footings, supporting columns, post, braces, structural members, or any other of its appendages.

**Fence Contractor** - a person, who for remuneration, erects, maintains, constructs, or reconstructs a fence on the premise of another. It does not mean the owner who owns or leases the premises on which the fence is located.

**Fence Contracting** - engaging in the business of erecting, maintaining, constructing, or reconstructing fences for which a permit is required.

**Front Yard** - a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

**Lot, Corner** - a lot which has at least two (2) adjacent sides abutting for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees (135°).

**Lot, Depth** - The mean horizontal distance between the front and rear lot lines.

**Lot, Interior**- A lot other than a corner lot.

**Lot, Key**- a corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

**Opacity** - is the degree of openness which light or views are blocked measured perpendicular to the fence for each fence section between supports.

**Public Right-of-Way (ROW)** – a strip of land which is used as a roadbed for street, alley or a highway and is intended for use by the public at large, or land set aside as an easement or in fee, either by purchase, agreement or condemnation. Generally, describes an area used for the provision of streets and utilities. Unless otherwise specified, the term right-of-way shall refer to a public right-of-way.

**Rear Yard** – The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

**Repair** – a repair to a fence shall be defined as maintenance to a fence where replacement of materials does not exceed fifty (50%) percent of the fence and does not change the scope, location or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made.

**Residential District** - a district where the primary purpose is residential use and is defined in the comprehensive zoning ordinance excluding multi-family.

**Retaining Wall** - a wall not laterally supported at the top that resists lateral soil loads and other imposed loads.

**Screening** – a method of visually modifying the view of a structure, building, feature or use by methods such as fencing, walls, berms, densely planted vegetation or a combination of these methods.

**Screening Wall** - a wall or architectural extension that may be part of the structure or a standalone feature that screens from view the interior of a property so that visibility through the wall shall be prevented from the exterior side of the wall or architectural extension.

**Setback** - the distance from the property line or the right-of-way line of all streets adjacent to the premises on which a fence is located to the part of the fence closest to the property line or right-of-way line.

**Side Yard** – The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

**Street** – any dedicated public thoroughfare that affords the principal means of access to abutting property.

**Vision or Visibility Triangle** - the corner visibility triangle is defined at an intersection by extending the two ROW lines from their point of intersection to a distance. These two points are then connected with an imaginary line to form the corner visibility triangle as shown in Figure 1. If there are no curbs existing, then the triangular area shall be

formed by extending the property lines for distance of thirty feet (30') from their point of intersection.

**Yard** - an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

### **Sec. 18-475 Permits.**

- A. Required.** It is unlawful for any person to construct, repair, replace, or cause to be constructed, repaired, or replaced, a fence or any part of a fence in the city without first obtaining a fence permit from the Chief Building Official. No permit is required for repairs as defined by this Ordinance.
- B. Unlawful securing of permits.** No registrant under this ordinance shall for any purpose allow its registration, by name or any other identification, to be transferred to, assigned to, or in any manner directly or indirectly used by, any person, and corporation or business entity other than the one to whom the registration was issued.
- C. Approved plans.** The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Development Services Department. When a permit is submitted where plans are required, the Chief Building Official or his designee shall endorse in writing or stamp the plans and specifications "Reviewed." Such reviewed plans and specifications shall not be changed, modified or altered by any person without authorization from the Chief Building Official or his designee, and a person shall do work regulated by this Ordinance in accordance with the approved plans.
- D. Expiration.** Every permit issued shall become invalid unless the work authorized by such permit is commenced within one hundred and eighty (180) days after its issuance, or if the work authorized by such permit is suspended, abandoned or lacks the required, by the inspections department, inspections for a period of one hundred and eighty (180) days after the time the work is commenced. The Chief Building Official or his designee may extend the time for action by the applicant for a period not to exceed ninety (90) days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No applications shall be extended more than once. Changes, alterations, or adjustments in the permit or in the work authorized by the issuance of the permit, after it has been issued, shall not extend the original expiration date established upon the original issuance of the permit.

- E. Suspension or revocation.** The Chief Building Official or his designee may, in writing, suspend or revoke a permit issued under the provisions of this Ordinance when the permit was issued in error, on the basis of incorrect information, or in violation of any applicable law.
- F. Validity of permit.** The issuance or granting of a permit or approval of plans, specifications and computations is not a permit for, or an approval of, any violation of any of the provisions of this Ordinance or of any other city ordinance. Permits presuming to give authority to violate or cancel the provisions of this Ordinance or any other city ordinance are not valid.
- G. Construction documents.** Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets, as required by the Chief Building Official, with each application for a permit. When required by the Chief Building Official or his designee the applicant shall also provide additional information as required by the building code. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Chief Building Official is authorized to require additional construction documents to be prepared by a registered design professional. Exception: The Chief Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.
- H. Availability of plans.** One set of approved plans, specifications, and a copy of the permit shall be made available, by the applicant, for inspection of the work authorized by the permit. The said set of approved plans, specifications and permit shall be kept on the work site by the applicant during the construction process.
- I. Other laws.** The owner or the owner's authorized agent who applies for a permit to construct a fence must comply with all the requirements of this Ordinance and the requirements of the building code. The provisions of this Ordinance shall not be deemed to nullify any provisions of local, state or federal law.

**Sec. 18-476. Contractor's registration required.**

- A.** It is unlawful for any person to engage in the business of fence contracting without a valid contractor's registration. Property owners are not required to register as a contractor.
- B.** The Chief Building Official shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a contractor registration.

- C. Every contractor registration provided for in this code shall expire one (1) year following the date of its issuance, and shall be renewed by the Chief Building Official upon application.

**Sec. 18-477 Contractor's license; revocation.**

- A. The Chief Building Official or his designee may revoke or suspend a fence contractor's registration for either of the following reasons:
  - 1. The registrant violates the requirements of this ordinance twice within a twelve (12) month period.
  - 2. The registrant fails to obtain permits and/or inspections twice within a twelve (12) month period.
- B. A contractor whose registration has been revoked or suspended may be reinstated by the Chief Building Official or the Construction Board of Appeals on an appeal. The registration may only be reinstated if the contractor corrects all violations and pays all applicable fees.

**Sec. 18-478 Appeal process for registration suspension.**

- A. **Building official's order, requirement, decision or determination.** Appeals from an order, requirement, decision or determination of the building official shall be made in writing to the City Manager's office within seven working days of the order, requirement, decision or determination of the Chief Building Official. The City Manager shall notify the Chief Building Official and the appellant of the placement of the appeal on the first available Construction Board of Appeals agenda in compliance with the Texas Open Meetings law.
- B. **Board's decision.** Appeals from a decision of the board shall be made in writing to the City Council within seven working days of the written decision of the board. The City Secretary shall notify the Chief Building Official and the appellant of the placement of the appeal on the first available City Council agenda in compliance with the Texas Open Meetings law. The decision of the City Council is final.

**Sec. 18-479 Application for Permit.**

- A. **Any person making application** for a fence permit shall complete a permit application, provided by the Chief Building Official or his designee. The Chief Building Official shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a contractor registration.

**B. Expiration of plan review.** Application for which no permit is issued within ninety (90) days following the date of application shall expire by limitation, and plans and other data submitted for review may be returned to the applicant or destroyed by the Chief Building Official. The Chief Building Official may extend the time for action by the applicant for a period not exceeding ninety (90) days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No applications shall be extended more than once.

**C. Contractor submittal requirements**

All permit applications applied for by a contractor for work or installations are required to have:

1. Written and signed statement from the homeowner, and/or
2. Copy of a contract (or agreement) signed and 'dated' by both parties; the homeowner and contractor.

**D. Licensed subcontractor requirements**

When the proposed scope of work requires licensed subcontractor(s), the application must include:

1. Written, dated, and signed statement from the subcontractor, and/or
2. Copy of a contract (or agreement) signed and 'dated' by both parties; subcontractor, contractor and/or homeowner.

Permits will not be processed without contractor and homeowner written validation.

**Sec. 18-480 Fees.**

**A. Investigation.** When a person begins any work for which a permit is required by this Ordinance without first obtaining a permit, the permit application fee shall double to be equal to the amount of the permit fee whether or not a permit is issued before the Chief Building Official may issue a permit for the work. Payment of the fee shall not exempt any person from compliance with all other provisions of this Ordinance nor from any penalty prescribed by law.

**B. Permit fees.** Permit fees shall be designated by the City Consolidated Fee Schedule.

**Sec. 18-481 Encroachment on public property.**

No person shall construct a fence, guy wire, brace or any fence post upon, or into public right-of-way or property that the City or the general public has dominion and control over, owns or has an easement over, under, around or through.

**Sec. 18-482 Fence not to create a traffic hazard.**

It is unlawful to erect, maintain, suffer or permit any fence on any corner lot in such a manner as to create a traffic hazard or restrict visibility. Failure of the owner, agent or occupant to remove such obstruction within the specified time limit required on the receipt of notice to do so is a violation of this Ordinance.

**Sec. 18-483 General Requirements**

- A. No fence material shall be used to construct a fence except for those listed and regulated in this chapter or other city ordinances.
- B. Fence sections essentially parallel with a public street shall have their back side (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public. Exception: Posts and rails may be oriented to the exterior of the residence when concealed within construction that is consistent with and complementary to the construction of the fence. Visual depictions of construction shall be required for review of appearance prior to issuance of a permit.
- C. No fence shall be erected on public right-of-way, within any drainage easement, or Visibility, Access & Maintenance Easements unless otherwise authorized by the Director of Engineering Services.

**Sec. 18-484 Residential Zoning District Regulations.**

These sections (18-484-18-484.8) shall apply in all residential zoning districts within the city.

**Sec. 18-484.1 Height Limitation.**

- A. **Rear yard.** It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence in any rear yard or along any rear yard lot line which fence exceeds eight (8') feet in height as defined in subsection 18-484.8.

Decorative gate embellishments are allowed. They shall not exceed the height of the fence by more than two (2') feet.

- B. **Side yard.** It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence in any side yard or along any side yard lot line which fence exceeds eight (8') feet in height as defined in subsection 18-484.8.

**Sec. 18-484.2 Construction in front yards.**

- A. **All fences constructed in the front yard of a residential property** shall:
  - 1. Be no taller in height than forty-eight (48") inches as defined in subsection 18-484.8.
  - 2. Allow minimum fifty (50%) percent opacity.

3. Not impede the vision triangle.
4. Not allow vertical support posts and gates to extend more than four (4") inches above the top of the fence intersection.

**B. Decorative Gates.** A decorative gate over four (4') feet in height in the front yard requires the approval of the Chief Building Officials or designee.

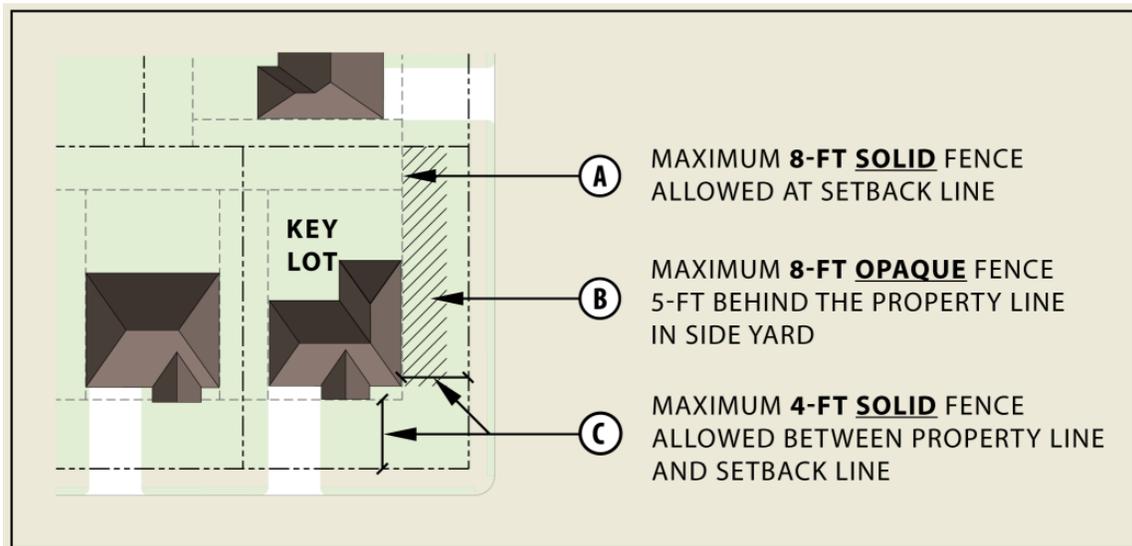
**C. Key Lots.** There are special restrictions for fences on key lots.

1. Refer to Figure 1 along with the definition in the definitions section for an explanation of a key.
2. A fence, that is more than 50% opaque and constructed of tubular steel or wrought iron and not exceeding eight (8) feet in height, may be located up to five (5) feet from the property line of the side of the house on a key lot.
3. A solid fence, not exceeding eight (8) feet in height, may be located at the setback line (front yard setback shall be used for key lots) as defined by Zoning Ordinance as it is currently written or may be amended. It is the property owner's responsibility to ensure proper setbacks are maintained.
4. Figure 2 illustrates the difference between property lines and setback lines for determining fence locations for key lots.



- |   |  |
|---|--|
| <p>Ⓐ Key Lot - front yard setback required on both street frontages</p> <p>Ⓑ Key Lot with alley separation - side yard setbacks permitted</p> | <p>1 Front Yard</p> <p>2 Side Yard</p> |
|---|--|

**Figure 1. Determining if a lot is a key lot**



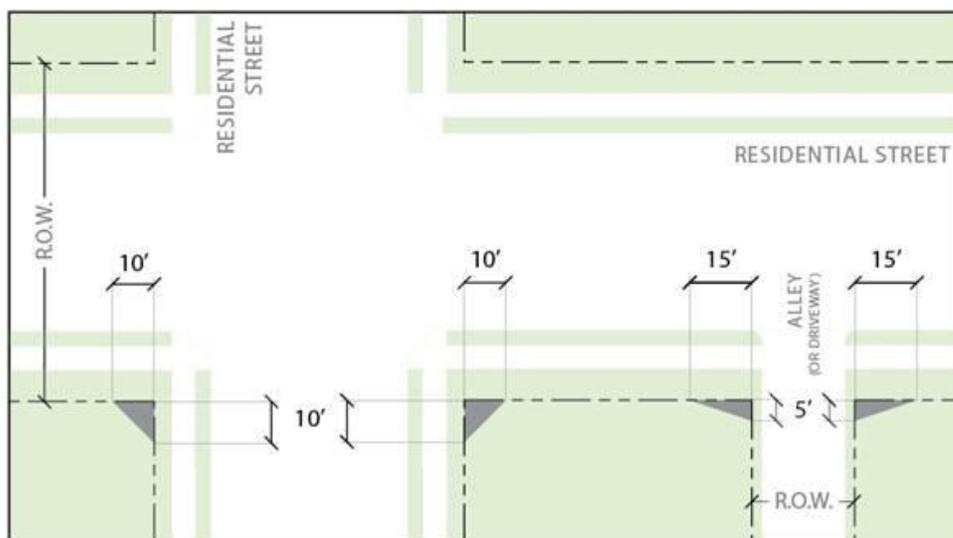
**Figure 2. Locating fences on key lots**

**Sec. 18-484.3 Temporary fences.**

Temporary fences are prohibited in residential districts, except where required by Code for construction, excavation or life safety issues.

**Sec. 18-484.4 Sight Visibility Triangle.**

The corner visibility triangle is defined at an intersection by extending the two ROW lines from their point of intersection to a distance as shown. These two points are then connected with an imaginary line to form the corner visibility triangle. If there are no curbs existing, then the triangular area shall be formed by extending the property lines for a distance of thirty feet (30') from their point of intersection. A fence on the corner of a major thoroughfare must have a 40 ft x 40 ft visibility triangle.



**Figure 3. Visibility Triangles**

**Sec. 18-484.5 The following types of fences are prohibited in a residential district.**

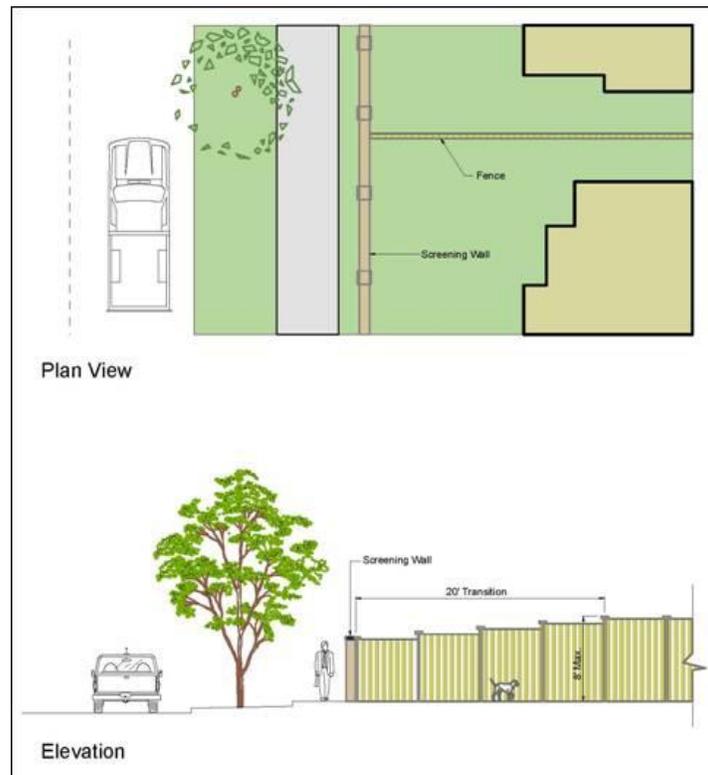
It is unlawful for any person to erect, maintain, or permit a fence that;

- A.** Is electrically charged in any manner, except single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.
- B.** Has barbed wire in or on it.
- C.** Has concertina wire in or on it.
- D.** Has razor wire in or on it.
- E.** Has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals.

**Sec.18-484.6 Perimeter Walls**

Where a fence intersects a screening wall and the height of the fence exceeds the height of the screening wall, the height of the fence shall transition to the height of the screening wall over a distance of twenty (20') feet.

Exception: The Chief Building Official may make exceptions to the twenty (20') feet transition where terrain and lot orientation does not allow for an orderly transition. Visual depictions of construction shall be required for review prior to issuance of a permit.



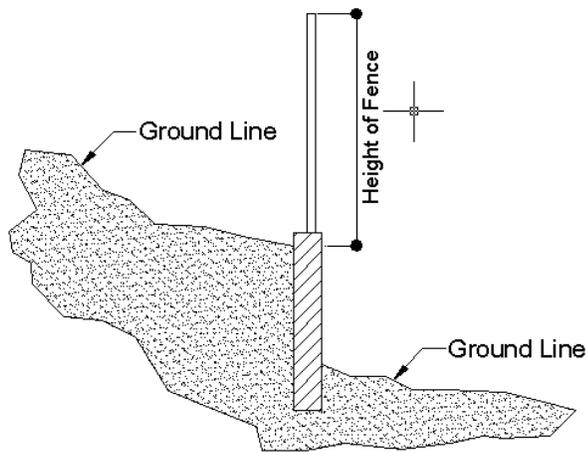
**Figure 4. Connecting to perimeter walls**

### **Sec. 18-484.7 Access for Residential Garbage Collection.**

- A.** Access must be maintained upon a residential lot for the access and collection of trash and recycling containers.
- B.** Residential lots that enclose the driveway with a gate shall;
  - 1. Provide a separate area where trash and recycling containers are accessible for collection as approved by the Environmental Services Division, or
  - 2. Leave the gate open on collection days so that trash and recycling containers are accessible for collection.
  - 3. Residents that wish to install a gate and do not provide a separate accessible area for trash and recycling containers must complete a waiver that they understand that failing to leave the gate open for collection can be a reason for denial of service.
- C.** Residential lots that do not provide an accessible location for the collection of refuse containers may be refused service.
- D.** Residential lots with a pool shall have an interior fence as required by code to protect access to the pool if a gate has to be left open for collection of trash and recycling containers.

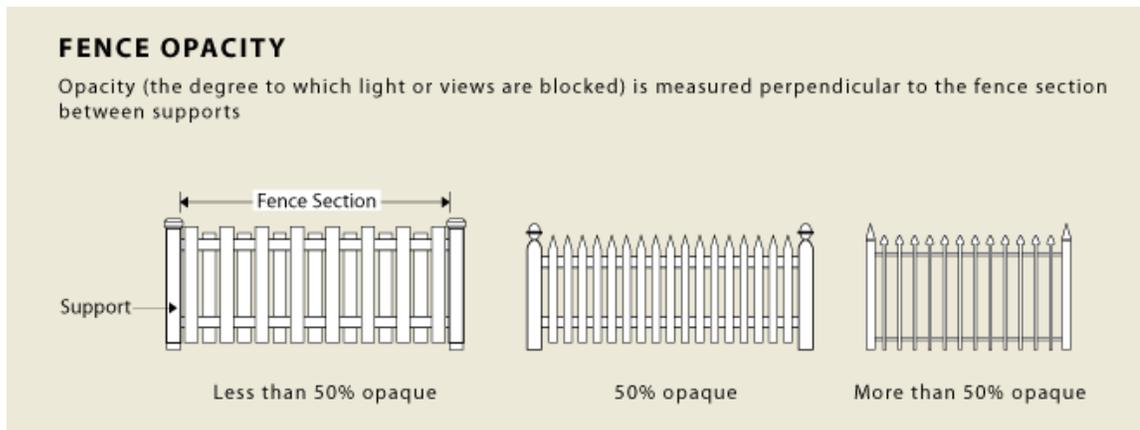
### **Sec 18-484.8 Determining fence height and opacity**

- A. Measurement.** Fence height is measured to include the body of the fence, plus allowing a maximum of six (6") inches (on average between posts) above the natural grade (i.e., for drainage purposes). Fence posts are permitted to extend a maximum of four (4") inches above the body of the fence. Columns are permitted to extend a maximum of twelve (12") inches above the body of the fence.
- B. Elevations.** In the event that the fence height has been elevated through the use of a retaining wall, the fence height is measured from the ground level at the highest point as shown below. The creation of a berm or other method for the primary purpose of increasing the elevation of the fence is not allowed.



**Figure 5. Determining fence height**

**C. Opacity** – is the degree of openness which light or views are blocked measured perpendicular to the fence for each fence section between supports.



**Figure 6. Opacity of fences**

**Sec. 18-485 Non Residential Zoning Districts.**

**A. Fences constructed in non residential zoning districts** must meet requirements found in the zoning ordinance.

**B. Height Restrictions.** A fence in a non residential zoning district may not exceed eight (8') feet in height nor be less than six (6') feet in height and meet the requirements of the Zoning Ordinance as it currently exists or may be amended.

- C. Fences in districts zoned Agricultural or Industrial** may also contain the following material:
1. Fence arms
  2. Barbed wire as accessory to other fencing material
  3. Razor wire with special applications
  4. Chain Link
  5. Other material that may be approved for use in that district by the Chief Building Official or his/her designee unless approved by a site specific zoning case or approved by a variance.
  6. Fences on parcels used for Agricultural purpose may contain barbed wire or other material approved by the Chief Building Official or his/her designee.

**Sec. 18-486 Fire hydrant and utility clear zone.**

- A. Any area three (3') feet in radius around any fire hydrants and fire hose connections must be kept free of any fencing that could impede access to or use of the hydrant or fire hose connection.
- B. A fence must not impede access to public utilities or metering devices.

**Sec. 18-487 Fences in floodways.**

Fences are not permitted in floodway areas as designated on FEMA's flood boundary and floodway map.

**Sec. 18-488 Drainage.**

A fence must not adversely affect drainage or create debris build-up.

**Sec. 18-489 Conflicts between this Ordinance and zoning regulations.**

In all cases of conflict between this Ordinance and the zoning regulations of the city, including but not limited to the Zoning Ordinance, as amended, concerning construction and maintenance of fences, the most restrictive shall prevail. In all cases of conflict between this Ordinance and any planned development ordinance, the planned development ordinance shall prevail.

**Sec. 18-490 Fence construction and materials.**

- A. No person shall construct a fence that is not able to structurally support fencing materials as required in the building code as currently exists or as amended.
- B. Gates or other openings in the fence should be at least three (3') feet in width for egress.

- C. A person building a fence shall comply with the requirements of the building code and all other city ordinances with regard to construction, materials, and workmanship.
- D. No permit is required for a person constructing a masonry fence or masonry retaining wall less than twenty-four inches (24") in height. Retaining walls greater in height than thirty-six (36") inches shall be in compliance with a design submitted by a registered engineer. Any portion of a retaining wall must not interfere or alter any drainage swale between lots.
- E. A person constructing a fence shall build it of rigid construction with acceptable materials approved by the building code.
- F. Chain link fencing shall be a minimum size of eleven (11) gauge or greater.
- G. A person constructing a masonry fence (including concrete block) shall make the exterior surfaces free from sharp projections.
- H. No person shall construct a wall or fence that exceeds two (2') feet in thickness, unless approved by the Chief Building Official. Cavities or spaces within a wall or fence shall not be used for the support, storage, shelter, or enclosure of animals, or personal property.
- I. A person constructing a fence shall use only approved materials and construction methods that ensure uniform construction throughout. Once the person has established a pattern of materials and construction method he or she shall continue such method throughout the entire length of the section from corner post to corner post.
- J. A person constructing or maintaining a fence or wall enclosure around a swimming pool, hot-tub, or spa shall comply with the minimum requirements of subsection 18-495 of this ordinance.

#### **Sec. 18-491 Wooden Fence Standards.**

- A. All vertical posts on fences over four (4) feet in height shall be galvanized steel with a minimum two (2) three-eighths (3/8ths) inch diameter, a minimum fifteen (15) gauge thickness, and set in a concrete footing.

Picket fences, split rail fences, ranch style or agricultural fences, or other types of decorative fences approved by the Building Official or his/her designee shall be permitted to use wood posts.

- B. Concrete footings shall be a minimum of eight (8) inches in diameter.
- C. For fences less than seven (7) feet in height, posts shall be spaced at a maximum of eight (8) feet on center, set in a concrete footing of no less than twenty-four (24") inches deep.

- D. For fences that are seven (7) feet or greater in height, posts shall be spaced at a maximum of six (6) feet on center, set in a concrete footing of no less than thirty-six (36") inches deep.
- E. Fence posts attached to or supported by other structures, including retaining walls, shall be provided with foundation and anchorage to prevent movement of structure or retaining wall.
- F. All materials shall be securely fastened, vertical boards to horizontal stringers, stringers to vertical posts, top rail, to ensure an ongoing attractive appearance and safe condition, free from rot, rust, vandalism and other sources of decay.
- G. The bottom of the fence shall be designed to prevent ground to wood contact. This can be achieved through the use of a concrete strip poured between the fence supports or by raising the pickets to provide a minimum of two inches between the bottom of the pickets and the ground. A kick board may be used to cover the gap between the bottom of the pickets and the ground. This kick board may have ground contact if treated and must be approved for ground contact.
- H. All wood material shall be stained, pressure treated, painted, or adequately sealed to prevent decay.

**Sec. 18-492 Prohibited Fence Materials.**

- A. No person shall use rope; string; wire products including but not limited to chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; live bamboo; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence or any other material that are not manufactured specifically as fencing materials. The Chief Building Official or his designee may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

Exceptions:

1. A dog window may be installed in a fence no larger than two hundred eighty-eight (288) square inches with corrosion resistant material capable of restraining the dog.
  2. Temporary fences made of wire, not in excess of thirty-six (36") inches, in residential districts are permitted for residential garden uses only.
- B. No person shall construct a fence of, damaged, or unsafe materials.
  - C. No person shall weave or use slats of any material, including but not limited to metal, fiberglass, and bamboo through a chain link fence to create a blind

fence, screening fence or any other type of fence addressed in this Ordinance in a residential district.

- D. Used materials, equipment and devices shall not be reused unless, it can be determined by the Chief Building Official that, they meet the requirements of the building code for new materials.
- E. No person shall construct a fence of metal panels on a residentially zoned property.

### **Sec. 18-493 Maintenance and standard of fences.**

A fence or fences shall be maintained by the owner of the property in compliance with the requirements of this Ordinance including but not limited to the following maintenance standards:

- A. A fence shall not lean more than one inch out of vertical for each foot of height as measured from the top of the fence.
- B. The owner shall replace broken, damaged, removed or missing parts of a fence within ten (10) days of, the day the owner received notice from the Chief Building Official or his designee, with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made. No permit is required for repairs as defined in this ordinance. The Chief Building Official or his designee may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time as required. The Chief Building Official or his designee shall not extend the replacement time longer than reasonably necessary. The owner requesting a replacement time extension shall provide the Chief Building Official or his designee a written scope and schedule detailing materials and estimated time period of the completed replacement for approval.
- C. A fence shall be maintained in sound structural condition as a whole or completely removed, including post(s).
- D. Property owners shall maintain fences, including those existing prior to the adoption of this Ordinance, at all times in a state of good repair, safe and secure condition, with all braces, bolts, nails, supporting frame and fastenings free from deterioration, termite infestation, rot, rust or loosening, and able to withstand at all times the wind pressure for which they were designed.
- E. Property owners shall regularly paint fence supports, gates, structural members and exterior surfaces that are covered with paint to prevent rusting, peeling or blistering surfaces.
- F. Existing fences that were constructed prior to the adoption of this Ordinance that were constructed with materials not currently permitted by this Ordinance

may be maintained as long as no part of the fence is or becomes unsafe, dilapidated, or a public nuisance. If the Chief Building Official or his designee determines the fence is unsafe, dilapidated, or a public nuisance the fence must be repaired with materials approved by this Ordinance or be removed.

- G. The repairs/maintenance must be made in complete sections extending a minimum of support post to support post. If the Chief Building Official or his designee determines the extent of repair on any existing fence (materials in noncompliance) is in excess of fifty (50%) percent of the total fence, then the entire fence must be replaced with materials approved by this Ordinance. A rolling twelve (12) month time period shall be used to determine if over fifty (50%) percent of a fence has been repaired.
- H. The construction of a fence or wall on the property line shall not preclude the property owner's responsibility to maintain and keep the area between the property line to the back of curb or edge of the pavement or center of alley, free and clear of debris and high weeds.

#### **Sec. 18-494 Requirements for Nonconforming Fences, Walls, Gates, and Columns.**

Replacement of legal nonconforming fences, walls, gates, and columns shall be subject to the requirements in this ordinance. Exceptions may be granted by an approved PD ordinance for the neighborhood.

- A. A permit shall not be required if:
  - 1. Repair of short sections of legal nonconforming fences, walls, gates, or columns when repairs are less than two fence panels or a maximum of sixteen (16) feet; or,
  - 2. Replacement of fence does not exceed fifty (50%) percent of the total fence length; or,
  - 3. A rolling twelve (12) month time period is used between repairs or replacement.
- B. The replacement of any nonconforming structure shall be prohibited if the Chief Building Official determines that a public safety hazard exists or the City Engineer determines that the structure encroaches in an easement or public right-of-way. Any fence, wall, gate, or column constructed without a lawfully issued permit is a violation of the Municipal Code.

#### **Sec. 18-495 Swimming Pool and Spa Enclosure Requirements.**

**PURPOSE:** The purpose of this section is to protect the public health, safety and welfare by requiring:

- A. Residential swimming pools, or spas and similar structures eighteen inches or more in depth designed for wading, swimming or other recreational purposes located on any residential premise within the City of Frisco to be enclosed in the manner prescribed herein; and
- B. Any residential cesspool, seepage pit, well or similar type of shaft, having a diameter in excess of eight (8) inches to be securely covered at all times when the same is unattended.

**Sec. 18-495.1 Definitions.**

For the purpose of this section, the following definitions are applicable:

- A. **Above ground or on-ground pool** – See definition of "swimming pool."
- B. **Approved safety swimming pool cover** – means a power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials International (ASTM), in compliance with Underwriters Laboratories Inc. (UL) Standard F 1346-91, Standard Performance Specification Covers and Labeling Requirements.
- C. **Barrier** – is a permanent fence, enclosure, wall, building wall or combination thereof that completely surrounds the swimming pool and obstructs access to the swimming pool.
- D. **Grade** – is the underlying surface, such as earth or a walking surface.
- E. **Permanent fence or enclosure** – is a wall, building wall or combination thereof that is fixed firmly, firm, established, safe, secure, constant and even, long lasting.
- F. **Permanent swimming pool or spa cover** – is a cover that is equipped with manual or electrical source or system and is approved from a recognized testing agency.
- G. **Separation fence** – is a barrier that separates all doors of a dwelling unit with direct access to a swimming pool from the swimming pool.
- H. **Spa** – A Spa/Hot Tub is an outdoor structure containing a body of water in an artificial or semi-artificial receptacle or other container having a capacity for water exceeding twenty-four (24) inches in depth at any point, used primarily for recreation or relaxation purposes, such as a hot tub, built above or below the surface of the ground elevation.
- I. **Swimming pool** – is any constructed or prefabricated structure intended for swimming or bathing, twenty-four (24) inches or more in depth. Such structure includes in-ground, aboveground and on-ground swimming pools, and fixed-in-place wading pools, regardless of the presence of any water.
- J. **Swimming pool, indoor** – is a swimming pool that is totally contained within a structure and surrounded on all four sides by walls of said structure.
- K. **Swimming pool, outdoor** – is any swimming pool that is not an indoor pool.

## Sec. 18-495.2 Barrier Fence Requirements.

**A. Required.** Every person in possession of residential land within the City of Frisco, whether as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool, spa or similar facility shall meet the requirements of this ordinance.

**Exception:** The pool is equipped with an approved power safety cover and complies with AG107.1 Standards.

**B. Minimum Height.** Barrier Fence height shall be a minimum of forty-eight (48) inches as measured on the side of the barrier that faces away from the swimming pool.

**C. Bottom Clearance.** The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches, measured on the side of the barrier that faces away from the pool, or four (4) inches, when grade is a solid surface, such as concrete or wood.

**D. Openings.** Vertical openings in the barrier shall not allow passage of a four (4) inch diameter sphere. Spacing between vertical members shall not exceed 1  $\frac{3}{4}$  inches in width. Decorative cutouts shall not exceed 1  $\frac{3}{4}$  inches in width. Solid barriers, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

**E. Closely spaced horizontal members.** For barriers in which the horizontal members of the fence are spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the pool side of the barrier (Pickets shall be located on the outside of the fence with the posts being on the inside). Spacing between vertical members shall not exceed 1  $\frac{3}{4}$  inches in width. Should the pickets be located on the inside of the fence, measures shall be taken to render the fence non-climbable. Where there are cutouts within vertical members, spacing within the cutouts shall not exceed 1  $\frac{3}{4}$  inches in width.

**F. Widely spaced horizontal members.** Where the barrier is composed of horizontal members and the distance between the tops of the horizontal members is greater than forty-five (45) inches, the vertical spacing shall not allow a four (4) inch diameter sphere to pass between the pickets. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.

**G. Diagonal members.** Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening by the diagonal members shall not be more than 1  $\frac{3}{4}$  inches in width.

**H. Chain link dimensions.** Maximum mesh size for chain link fences shall be 2 ¼ inches square unless the fence is provided with slats fastened at the top or the bottom which reduce opening to no more than 1 ¾ inches. Chain link fencing shall be a minimum size of eleven (11) gauge or greater.

**Sec. 18-495.3 Gates.**

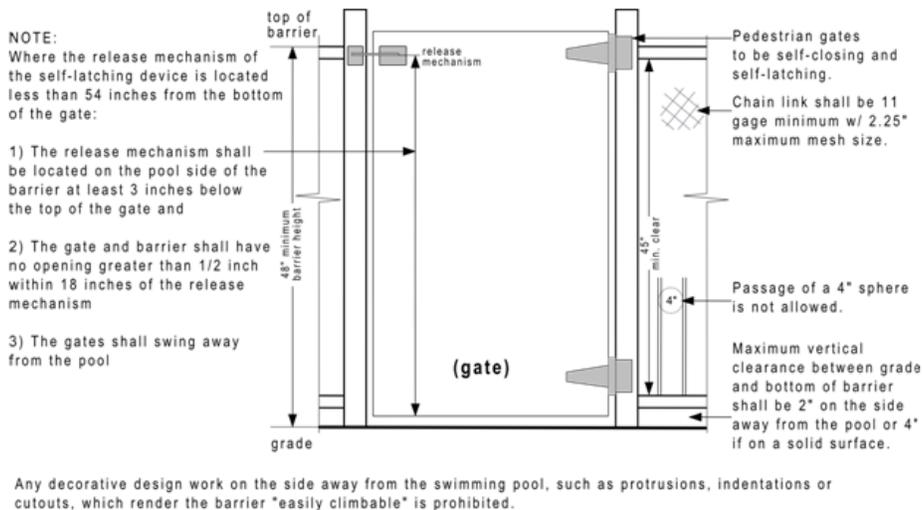
**A. Construction.** The gate must meet the same construction requirements as the barrier fence.

**B. Locking Device.** All gates shall be equipped to accommodate a locking device.

1. Pedestrian gates. All pedestrian yard gates must have self-closing, self-latching gates and must open away from the pool.
2. Non-pedestrian gates. The gate must meet the same construction requirements as the barrier fence.
  - a) There shall be a maximum of one.
  - b) It shall have a self-latching device and remain locked at all times when the pool area is not in use.
  - c) Gates over four (4) feet wide, such as double-gates for vehicles, must be padlocked if not self-closing/self-latching.

**C. Latching mechanism.** Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate;

1. The release mechanism shall be located on the pool side of the gate at least three (3) inches below the top of the gate.
2. The gate and barrier shall have no opening greater than ½ inch within eighteen (18) of the release mechanism.



**Figure 7. Fence and gate requirements overview**

## **Sec. 18-495.4 Barrier Climb Hazards.**

Pool/spa enclosures barriers shall be located and constructed so as to prohibit permanent structures such as walls, equipment, or similar objects from being used to climb the barrier. There shall be no less than thirty-six (36) inches between the pool/spa and any permanent structure or similar objects. Barrier climb hazards such as walls and fence section with elevation changes causing and containing horizontal members to be less than forty-five (45) inches shall be rendered non-climbable within thirty-six (36) inches of a climb hazard.

## **Sec. 18-495.5 Using house wall as a part of a barrier.**

**A. Doors.** Doors with direct access to the pool through that wall shall be;

1. Self-closing and self-latching and must swing outward from the pool area. A simple latch or lock located a minimum of fifty-four (54) inches above the floor, or a double-keyed dead bolt at any height is acceptable, or
2. Equipped with an alarm which produces an audible warning when the door and its screen are opened. The alarm shall sound continuously for a minimum of thirty (30) seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall be equipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than fifteen (15) seconds. The deactivation switch shall be located at least fifty-four (54) inches above the threshold of the door, or
3. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346.

**B. Sliding glass doors.** All sliding glass doors shall be self-closing and self-latching with an approved automatic door closer or;

1. Provide a separate fence; or
2. Replace the sliding glass door with a self-closing hinged door; or
3. Bolt the door shut (Option is not available if this is the only door to the pool area from the room). Removable pins or locks which prevent the door from opening are not sufficient to meet this safety code.

**C. Window latches.** Window latches must be at 54 inches minimum above floor; or

1. Except for bedroom egress windows, screwed in “stops” (not thumb screws) may be used to limit window openings to four (4) inches; or
2. Except for bedroom egress windows, provide a screwed-in-place wire mesh screen.

**D. Windows.** Windows, where the bottom edge is less than 60 inches above the pool desks and in within five (5) feet of the water’s edge, must be tempered glass.

- E. Animal or doggie doors.** Animal or doggie doors are not allowed if they allow direct access to the pool.

Exception: The door is alarmed or the pool has a cover as described in subsection 18-495.5 A.

- F.** Areas outside of windows or doors that otherwise cannot be made to comply with barrier and egress requirements must be fenced.

### **Sec. 18-495.6 Indoor swimming pools.**

For an indoor swimming pool, protection shall comply with the requirements of subsection 18-495.4.

### **Sec. 18-495.7 Above ground pools.**

All above ground pools, with non-climbable sides not less than forty-eight (48) inches high above the finished grade, may be located on a single-family residential property without requiring an interior fence, wall or barrier between the pool and the dwelling. Where an above ground 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 the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier that meets the requirements of an in ground pool. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four (4) inch diameter sphere.

### **Sec. 18-495.8 Spas.**

For all spas/hot tubs, protection shall comply with all requirements in this ordinance.

**Exception:** A spa or hot tub equipped with a listed safety cover which complies with the American Society for Testing and Material-Emergency Performance Specification (ASTM F1346-91) shall be exempt from the requirements of this ordinance.

### **Sec. 18-496 Penalties.**

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Violation of this Ordinance shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) if the violation relates to the public health, sanitation or dumping of refuse, otherwise the fine shall be a sum not exceeding Five Hundred Dollars (\$500.00). The City retains all legal rights and remedies available to it pursuant to local, state and federal law. Each day any violation of this Ordinance shall continue shall constitute a Separate offense.

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