

CHAPTER 1146  
Fences, Landscaping, and Driveways

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CROSS REFERENCES

Electric and barbed wire fences - see GEN. OFF. 660.12  
Swimming pool enclosures - see BLDG. 1335.13

1146.01        DEFINITIONS.

Terms as used in this chapter shall have the following meanings:

- (a) "Closed Fence" means a fence with an aggregate opening of less than twenty-five percent (25%) over the surface area of the fence and/or a fence with all openings not equally distributed.
- (b) "Decorative or Ornamental Fence" means any type of free-standing open fence, except chain-link and wire fences.
- (c) "Fence" means an elevated partition or barrier separating one lot from another lot or parts of the same lot and includes the material used for the fence, its support members and all related parts.
- (d) "Fence Height" shall be measured from the existing predominant and prevailing ground grade level to the top of the fence. No berm, mound or base shall be created or constructed for the purpose of erecting a fence thereon so as to increase the permitted height of the fence from the level of the then existing natural grade.
- (e) "Free-standing Fence" means a fence which is not connected at any point to the main building on the property.
- (f) "Growing Landscaping" means grass, trees, bushes and other living plants.
- (g) "Hardscape" means patios, walkways, fountains, decks, and other improved surfaces.

- (h) "Open Fence" means a fence with at least a twenty-five percent (25%) aggregate opening over the surface area of the fence, with all openings equally distributed.
- (i) "Snow Fence" means a flexible temporary wood and wire barrier which has an aggregate opening of fifty percent (50%) over the surface area of the fence and is designed and used for the sole purpose of limiting snow from drifting.

1146.02 FENCES.

- (a) Permitted Materials: Fences shall be constructed of wood, steel, aluminum, or PVC (polyvinyl chloride), formulated to resist impact and approved for ultraviolet stabilization, meeting requirements of ASTM D638. All fencing shall be structurally able to withstand weather conditions.
- (b) Fences Permitted In U-1, U-2, U-2A, U-3, U-3A, and U-3B Use Districts: Fences are permitted on property zoned Class U-1, U-2, U-2A, U-3, U-3A, and U-3B according to the following regulations:
  - (1) Along side and rear lot lines, but not greater than six (6) feet in height where abutting land is zoned Class U-1, U-2, U-2A, U-3, U-3A, or U-3B.
  - (2) Along side and rear lot lines, but not greater than eight (8) feet in height where the abutting land is zoned in any non-residential use district.
  - (3) Within the rear yard, but not greater than six (6) feet in height.
  - (4) Ornamental fences within front yards provided that:
    - (A) An ornamental fence by itself, or with other structures, shall not completely enclose any area of a required front yard.
    - (B) An ornamental fence shall not be located closer to any side lot line than the foundation wall on that side of the house.
    - (C) No ornamental fence shall be erected closer than twenty feet from the front property line.
    - (D) The total of all ornamental fencing within the required front yard setback shall be less than fifty percent (50%) of the width of the lot.
- (c) Fences Permitted in Non-Residential Use Districts:
  - (1) Along side and rear lot lines, but not greater than eight (8) feet in height.
  - (2) Within the rear yard, but not greater than eight (8) feet in height.
  - (3) Within front yard setbacks only as specifically authorized by the Planning and Zoning Commission.

- (d) Prohibited Fences: The following fences are prohibited in the City:
- (1) Closed and stockade fences except as authorized by the Planning and Zoning Commission in non-residential districts for the purpose of screening or buffering.
  - (2) Wire fences constructed of material less than #11 AWG.
  - (3) Barbed wire fences.
  - (4) Fences charged with electricity.
  - (5) Fences forward of the required front yard setback, except for ornamental fences as regulated in Subsection (b)(4) hereof or within non-residential districts as provided in Subsection (c)(3) hereof.
  - (6) Snow fences greater than four (4) feet in height or used during the months of April through and including October.
  - (7) Fences located less than fifteen feet from any driveway where the driveway is closer than fifteen feet from a side lot line.
  - (8) Fences not specifically permitted by this Chapter.
  - (9) Fences not having a uniform color, material and design except as authorized by the Planning and Zoning Commission.
- (e) Construction Or Replacement; Permit Required: Before constructing or replacing any fence, except snow fences, the owner shall apply for and be issued a permit by the Building Commissioner. Fences for land zoned other than Class U-1 Single-Family District shall also require the approval of the Planning and Zoning Commission.
- (f) Maintenance Of Fences: Fences shall be maintained with the same standards required of new fences, and the owner shall:
- (1) Replace or repair any part that is rusted or rotted.
  - (2) Re-paint or re-stain any part where the paint or stain is faded, cracked or peeling.
  - (3) Repair or replace any part that is loose, bent, bowed or leaning.
- (g) Nonconforming Fences: A nonconforming fence is defined as a fence which was constructed prior to the enactment of legislation regulating fences. Nonconforming fences shall be repaired and maintained, and shall be replaced with conforming fences if more than fifty percent (50%) of any such fence requires replacement, is destroyed or removed.

1146.03 LANDSCAPING.

- (a) Height Of Hedges And Shrubbery: Shrubs, hedges or bushes adjacent to side yard lines in front of the building line and shrubs, hedges or bushes adjacent to and parallel with the public sidewalk for a distance of fifteen feet from any driveway shall be planted and maintained so as not to exceed a height of two feet. Prior to any prosecution for the violation of

this section, the property owner shall be given ten (10) days written notice by the Chief of Police or his duly authorized representative.

- (b) Shade Tree Planting: Any owner or builder of a house or other building which is constructed and erected within the City shall deposit seventy-five dollars (\$75.00) with the Service Department to cover all expenses for the planting of shade trees on the tree lawn abutting such house or other building. One shade tree shall be planted for each multiple of thirty feet to fifty feet of frontage, depending on the tree lawn and type of tree to be planted, as determined by the Service Director. Corner lots require trees on both streets. A minimum of one shade tree shall be planted for each house or other building, regardless of the frontage of the lot. The Building Commissioner shall not issue a building permit to any person engaged in the construction of houses or buildings for resale until such person has complied with this section. .
- (c) Landscaping of Residential Lots Required: Growing and/or non-growing landscaping is required on the entire lot, except for such portions as are occupied by the house, garage, driveway or other permitted improvements. Council hereby finds and determines that the required landscaping is necessary for the public peace, health, safety and welfare, to protect pedestrians, to prevent deterioration of property values and to prevent the wash-down of mud and other debris across sidewalks and into catch basins. Not more than fifteen percent (15%) of the total lot area, exclusive of those areas occupied by the buildings, shall consist of hardscape, parking areas, and driveways.
- (d) Tree Lawns: Tree lawn areas shall only be planted with grass and/or city authorized street trees. No other improvements or landscaping shall be permitted within the tree lawn. No retaining walls, landscape timbers, or other landscape features shall be placed within twelve inches (12") of a public sidewalk. Damage to landscape features located within twelve inches of a public sidewalk from snow plowing or sidewalk maintenance shall be the responsibility of the homeowner.
- (e) Completion of Landscaping: Landscaping shall be completed within 120 days following issuance of a certificate of occupancy unless such date occurs after October 1 of a year. In that event, the time for completion shall be extended to June 1 of the following year. However, should a certificate of occupancy not be issued within 240 days of the issuance of a building permit, then the builder or owner shall install the front yard landscaping within ninety additional days unless such date occurs after October 1 of a year. In that event, the time for completion shall be extended to June 1 of the following year.

- (f) Emergency Improvements: The City may, as a condition of any building permit, enter upon single-family lots and make temporary emergency improvements required for the protection of the building, land or neighboring property. The City shall give reasonable notice to the person issued the building permit or others. The City may suspend the building permit until the cost for such emergency improvements is reimbursed to the City and/or it may assess such costs against the property.
- (g) Maintenance of Landscaping in Single Family Residential Districts: The person who applies for and is issued required building permits or certificates of occupancy shall cause the landscaping required by this section to be installed as set forth in this section, and the continuing owners of the property shall maintain the lot in compliance with this Building Code. After it is installed as required, the original landscaping may be altered by the owner without an additional permit, provided that such alteration meets the standards of this Building Code. Owners of single-family homes shall install and maintain landscaping by planting, replanting or installing all of the growing things and maintaining other permitted landscaping features in good maintenance and repair, with the grass cut to a height not to exceed eight inches.
- (h) Notice of Violations: The Building Commissioner shall give written notice to the owner, owner-tenant or person in charge of a single-family home found in violation of this Building Code. Such notice shall direct the installation and/or maintenance of landscaping and landscaping features as required by this section to be completed within five days from the date the notice is to be delivered. If the owner, owner-tenant or person in charge cannot be located, the notice shall be delivered to the house occupying such lot and posted thereon, which delivery shall constitute sufficient notice under this Subsection. A separate offense under this Subsection shall be deemed committed each day a violation continues, but no additional notice, after the first notice, shall be required.

#### 1146.04 DRIVEWAYS IN CLASS U-1 DISTRICTS.

Excluding the tree lawn, not more than thirty percent (30%) of the required front yard area may be improved with driveways, parking areas, sidewalks, and other hardscape surfaces.

#### 1146.99 VIOLATIONS AND PENALTIES.

Any person who fails to comply with any provision of the Chapter shall be guilty of a misdemeanor of the first degree and upon conviction thereof shall be subject to the penalties set forth in Section 101.99 of these Codified Ordinances.