Sec. 13-1-142 Fences.

(a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as a barrier consisting of wood, stone, cement, masonry, metal or vegetation, such as hedges or shrubbery, intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

(b) **Location of Fence.** A fence shall not be located nearer than three (3) feet from the property line of an adjacent owner's property.

(c) **Height of Fence for Residential Zoned Property.** Except as provided in Section 13-1-90 and Subsection (e) below, fences may be erected, placed, maintained or grown on residentially-zoned property to a height not exceeding five (5) feet above the ground level except that a fence which is located in a required front yard shall not exceed a height of three (3) feet. Where residentially-zoned property is adjacent to non-residentially-zoned property, the height limit of a fence shall be increased to eight (8) feet.

(d) **Height of Fence for Industrial Zoned Property.** Any property located in an industrial district shall have fencing consisting of effective solid vegetation along all lot lines adjoining any residential district unless waived by the Plan Commission. Said fencing shall not be less than eight (8) feet in height.

(e) **Vision Clearance.** On a corner lot in any district, no fencing shall be erected, placed, maintained or grown at a height exceeding three (3) feet above the curb level or its equivalent within twenty (20) feet of the corner of such lot that is at the street intersection.

(f) **Prohibited Fences.**

(1) No fence shall be constructed which is of a dangerous condition, or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.

(2) Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control.

(3) No woven, twisted, welded or interlaced wire fence, such as using chicken wire, shall be located in a non-industrial district, unless such fencing is ornamental in character.

(4) No wood-slat or plastic snow fence shall be permitted as a regular use in a Residential District, except as a temporary use under Subsection (h).

(g) **Fences to be Repaired.**

(1) All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.

(2) Any existing fences which do not conform to the requirements of this Section and which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence, said entire fence shall either be completely dismantled or reconstructed in compliance with the provision of this Section.

(3) All new and existing fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. If a fence needs repair and maintenance, said fence shall be painted or stained in only neutral colors. Failure to maintain a fence in good condition and repair will result in the City issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that failure to comply will result in a violation and with a penalty set forth in Section 1-1-7,

(h) **Temporary Fences.**

(1) No permit is needed for a temporary fence. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than one hundred fifty (150) days.

(2) This Section is not intended to regulate seasonal or temporary fences such as garden or snow fences except that such fences shall be removed when the condition or season for the said fence was erected no longer exists. There shall be no fee for any such seasonal or temporary fence.

(i) **Visibility; Open Spacing Requirement.**

(1) In any non-residential area, fences shall be of such type and construction that shall allow people outside the fence to see through it without hindrance. However, if a residence exists in a non-residential zone, a fence may be constructed pursuant to the requirements of Subsection (i)(2) below. In an industrial area where barbed wire is used, the lowest strand shall be a minimum of six (6) feet above the grade.

(2) All fences hereafter erected or constructed shall provide openings for a passage of air equivalent to twenty-five percent (25%) of the surface area of the fence and shall have the structural components thereof facing the side of the property for and on which the

same are erected. In residential areas where privacy is desired, privacy fences with less than such twenty-five percent (25%) open spacing may be erected, provided such fence may not extend farther than twenty-five percent (25%) from the main rear line of such residence. A fence situated in a residential area shall be constructed only of wood or chain link type fencing. Fences shall not be constructed of luminous materials or smooth or corrugated metal materials. All fences, including privacy fences, if said fence is to be stained or painted by the property owner or on his/her behalf, shall be stained or painted in only neutral colors.

(j) **Special Purpose Fences.** Fences for confining dogs, etc., shall not exceed six (6) feet in height, and shall be no larger than necessary for such purpose and shall conform to the building setbacks of this Chapter. Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-143.

(k) **Height Determination.** The height of any fence erected under this Section shall be determined by the measurement from the uppermost point of the fence to the existing ground level of the property.

(l) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section.

(m) **Fence Permit Required.** No person shall erect a fence in the City without first obtaining a fence permit from the City. The applicant shall provide the Zoning Administrator with accurate design information for the proposed fence. Permits may only be issued for proposed fences complying with this Section.

(n) **Location Determination.** The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his/her property.

(c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed:

(1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations and with any and all Ordinances of the City now in effect or hereafter enacted.

(2) All plumbing work shall be in accordance with all applicable Ordinances of the City and all state codes. Every private or residential swimming pool or hot tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.

(3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool or hot tub shall be in conformance with the state laws and City Ordinances regulating electrical installations.

(d) **Setbacks and Other Requirements.**

(1) Private swimming pools or hot tubs shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool or hot tub shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(2) No swimming pool or hot tub shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool or hot tub be less than six (6) feet from any lot line.

(3) Swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.

(4) Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.

(e) **Enclosure.**

(1) Except as hereinafter provided, every outdoor swimming pool and hot tub shall be completely surrounded by a fence or wall in addition to the pool wall of an above ground pool. Said fence or wall shall be constructed to a height of no less than six (6) feet. Any fence or wall shall be located to a minimum horizontal distance of four feet from the edge of the swimming pool or hot tub.

(2) A dwelling, deck or accessory building may be used as part of such enclosure and may be located within four (4) feet of the swimming pool or hot tub, providing it