

## COMMUNITY DEVELOPMENT

Planning,  
Zoning,  
Building Safety,  
Construction Inspection  
Services,  
Public Health

### MEMORANDUM

**To:** Mayor and City Council Members  
**Cc:** Gregg Mandsager, City Administrator  
Dave Gobin, Community Development Director  
**From:** Andrew Fangman, City Planner  
**Date:** April 14, 2016  
**Re:** Draft of the Portion of the New Zoning Ordinance that Deals With Fencing

The process to rewrite Muscatine's 40 year old zoning ordinance and implement the vision contained within the recently adopted Comprehensive Plan has begun. Attached is the draft of the chapter dealing with regulating wireless fencing. Following is an overview of the most significant aspects of the proposed changes.

Fencing regulations need to balance the safety and aesthetic needs of the community as whole, with the need for residents to create a more private outdoor space through the use of visual screening. Under the current Zoning Ordinance depending on the location on a lot, there are two standards for the maximum height of fencing in residential areas. In the area within the first 25 feet between any property line which abuts a street, and the dwelling, fences shall not exceed three feet in height (if less than 75% open), but may be up to six feet in height, if the of the fencing is an open type (at least 75% open), such as chain link. In all other area of a residential lot fencing may be constructed up to six feet and may be totally opaque.

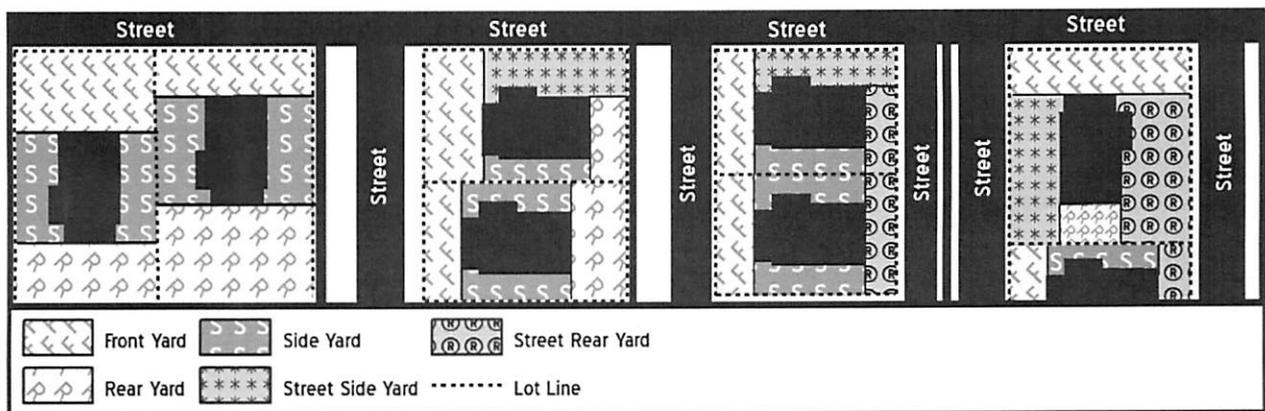
Current fence height regulations are structured to maximize visibility through and over any fencing located in close proximity to a street. This visibility is mandated for both safety and aesthetic reasons. It is within this area, that any driveways would be located, traffic entering and exiting driveways needs to be visible to vehicles and pedestrians on the adjoining street and sidewalk and vice versa. Visibility through and over any fencing located in close proximity to a street is also persevered in order to make the residential streetscape more attractive, by ensuring that the streetscape is comprised of things more attractive than the back of 6 feet high opaque fence.

The current fence height regulations have largely succeeded in achieving their safety and aesthetic objectives. However for many lots which front more than one street, typically corner lots, current regulation have made it nearly impossible for some property owners to create a

**"I remember Muscatine for its sunsets. I have never seen any  
on either side of the ocean that equaled them" — Mark Twain**

usable outdoor space that is not visible from the street. This is because that for numerous lots with multiple street frontages most of the yard space is located in areas where any fencing may not exceed 3 feet, unless it is an open type (at least 75% open), such as chain link. For lots with outdoor pools and multiple street frontages, this issue of the property owner not being able to create an outdoor space screened from public view through fencing is the most acute. The height of fencing required around outdoor pool is higher than three feet, and outdoor pools are a use which creates a higher demand for privacy. There are numerous lots on which it would be difficult to comply with applicable pool fencing requirements and screening pool users from a nearly unobstructed view by passersby on the street.

The proposed fencing regulations will strike a better balance between the competing needs of safety and aesthetic needs of the community as whole, with the need to give residents the ability to create a more private outdoor space, by increasing fencing and screening options, for parcels with more than one street frontage. Regulations for lots with just one street frontage are not being proposed for change, as they are functioning well as currently written. For the purpose of regulating fences the proposed regulations would no longer treat all yards that abut a street as front yards. For parcels with multiple street frontages a single front yard would be defined and the other yards abutting streets would be defined as “street side yards” or “street rear yards”. The following diagram illustrates how yards would be defined for the purpose of fencing regulations.



Fencing regulations for front yards would be the same for all lots, regardless of the number of streets that they front, and would be the same as current regulations for fencing in front yards, as would regulations for side and rear yards not abutting a street.

The proposed regulations would change the maximum height for fencing in street side yards. Following are the limits for the maximum height for fencing that is more than 25% opaque in street side yards:

**Distance from property line**

- Within 6 feet of the property line: 3 feet
- Between 6 feet and 25 feet of the property(or the distance to the building line, whichever is less): 4.5 feet

- Beyond 25 from the property or the distance to the building line (whichever is less): 6 feet

This new approach will better balance the conflicting needs of the community for visibility and street streetscape aesthetics with the ability of residents to create a private outdoor space through visual screening. The proposed regulations continue restrict the height of opaque fencing, in the first six feet of a lot, to three feet to preserve the visibility of any driveways crossing through these areas. Allowing for opaque fencing of up to 4.5 feet in height in the area from 6 feet from the property line and 25 feet from the property line (or the building line, whichever is less), will allow for resident to screen a larger area of their yard from public view, while not allowing for fencing of a height that is radically different in what might be found in the front yard of an adjoining property. This maximum height of 4.5 feet would allow for all required pool fencing (as amended by these proposed regulations) to be met with something other than a chain link fence.

The proposed regulations would change the maximum height for fencing in street rear yards. Following are the limits for the maximum height for fencing that is more than 25% opaque in street rear yards:

**Distance from property line**

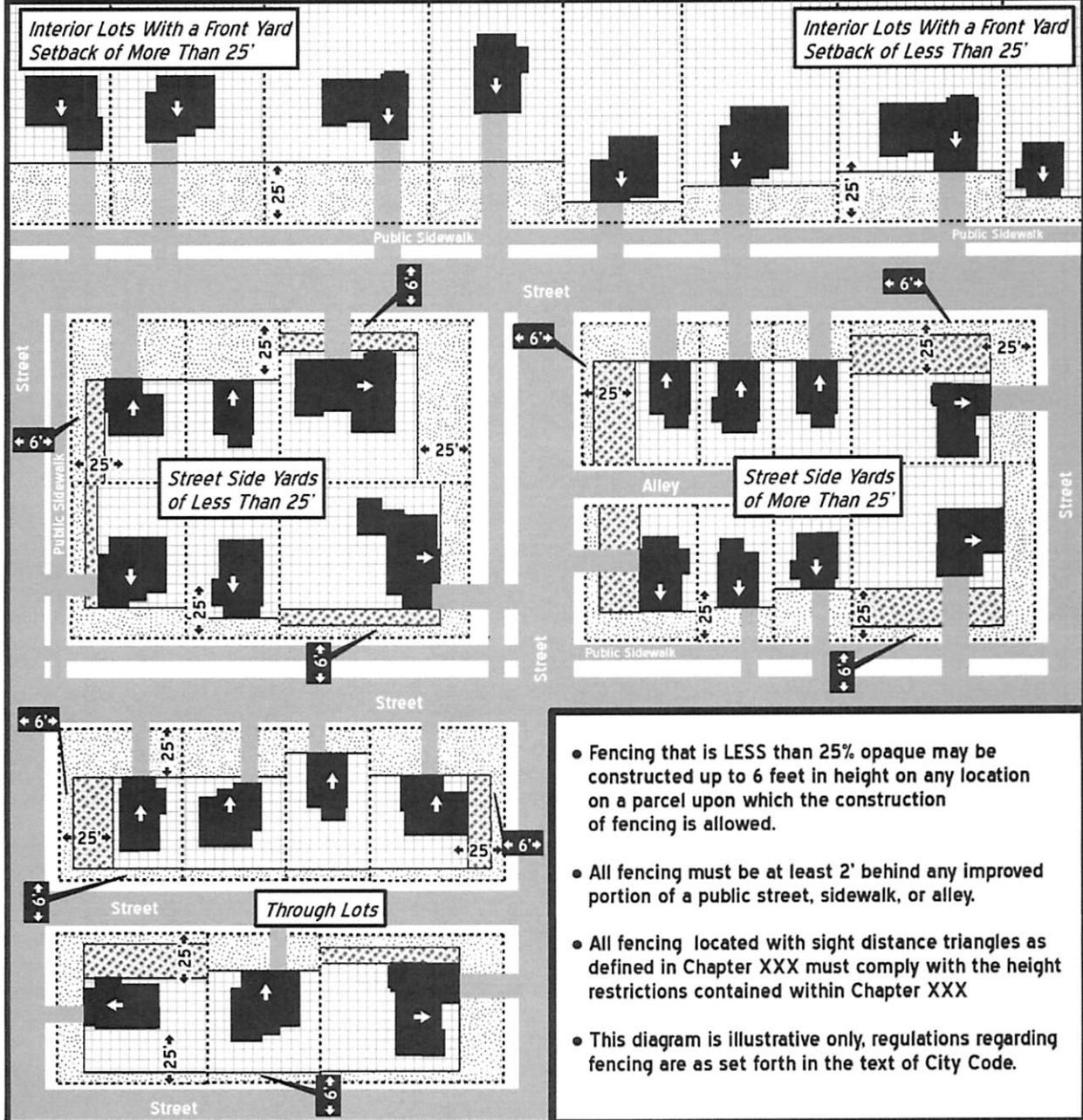
- Within 6 feet of the property line: 3 feet
- Beyond 25 from the property or the distance to the building line (whichever is less): 6 feet

These types of yards are found on lots that adjoin two non-intersecting streets. The proposed regulations continue to restrict the height of opaque fencing, in the first six feet of a lot, to three feet to preserve the visibility of any driveways crossing through these areas. Because by definition rear street yards only adjoin rear yards or rear street yards, a maximum height of six feet for opaque fence is more appropriate.

The proposed regulations would also prohibit the construction of any fence within two feet of any public sidewalk. This is being proposed in order to preserve a location to store shoveled snow, and also to allow for future maintenance on sidewalks to occur without being impacted by fencing.

In July of 2015 the City of Muscatine adopted the International Residential Code, 2015 Edition. This building code contains very detailed standers for pool fencing. The proposed regulations will bring the pool fencing standards in the Zoning Ordinance in sync with the pool fencing regulations found in the adopted residential building code.

# Illustration of Fencing Regulations



## Legend

-  Maximum Height of Fences that are more than 25% opaque: 3 Feet
-  Maximum Height of Fences that are more than 25% opaque: 4.5 Feet (54 Inches)
-  Maximum Height of Fences that are more than 25% opaque: 6 Feet
-  Building Footprint
-  Direction in Which the Front of the Building Faces
-  Property Line



## **Title 10 – Zoning**

### **Chapter XXX – Fence Regulations**

#### **10-XXX-1 Regulations for Fences in Residential Districts**

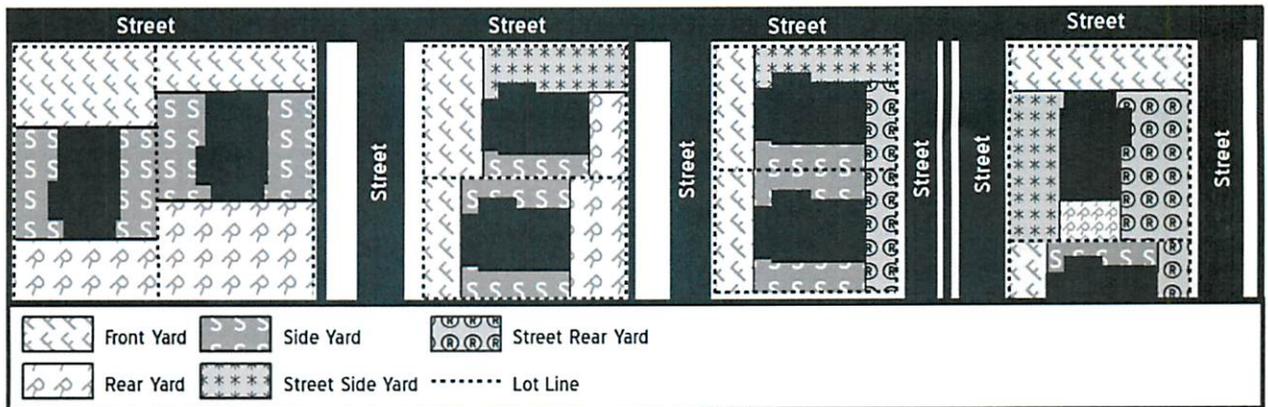
A. Fences in residential districts shall comply with the following regulations.

**B. Definitions**

For the purposes of this section only, the following terms are defined:

1. **Lot Lines:** The property lines along the edge of a lot.
2. **Street Lot Lines:** A lot line, or segment of a lot line, that abuts a street. Street lot line does not include lot lines that abut an alley.
3. **Corner Lot:** A lot which has street lot lines that intersect.
4. **Through Lot:** A lot which has street lot lines that do not intersect. A lot with three street lot lines can be both a corner and through lot.
5. **Building Line:** A line running parallel to a lot line, that is the same distance from the lot line as the closest portion of the main building on the lot, extended the full width of the lot.
6. **Front Lot Line**
  - a. On a lot only abutting one street, the front lot line is the full length of a lot line that abuts a street.
  - b. On a corner lot, the front lot line is the shortest of the lot lines that abut a street, regardless of the location of the building's architectural main entrance; if the lot is square then the front lot line shall face the building's architectural main entrance.
  - c. On a through lot, the front lot line is the street lot line which faces the building's architectural main entrance.
  - d. On a lot that is both a corner lot and through lot, the shortest street lot line shall be deemed to be the front lot line, if two street lot lines are the same length and shorter than any other street lot lines, the front lot line is the is the street lot line which faces the building's architectural main entrance.
7. **Front Yard:** The area extending across the full width of the lot extending from the front building line of the main building to the front lot line.
8. **Rear Lot Line:** A lot line that is opposite a front lot line.
9. **Rear Yard:** The area extending the full width of the lot between the rear building line and the rear lot line, exclusive of any area that meets the definition of a street side yard or rear side yard.

10. **Side Lot Line:** A lot line that is neither a front, rear, or street lot line.
11. **Side Yard:** Areas between a side building lot line and the main building, and which are between the front and rear building lines.
12. **Street Side Lot Line:** A lot line that is neither a front or rear lot line, and is a street lot line.
13. **Street Side Yard:** The street side yard shall be any area behind the front building line, that is between any side street lot line and the main building, and which does not meet the definition of a street rear yard.
14. **Street Rear yard**
  - a. When the rear lot line is also a street lot line, the street side rear yard shall be the area between the rear building line and the rear lot line, exclusive of any area located between a side building line and a side lot line that is a street lot line.
  - b. When the rear lot line is not a street lot line, the street side rear yard shall be the area behind the front building line, that is between the side street lot line, on the street which the rear lot line of the adjoining lot is parallel to, and the side building line.



- C. The maximum allowed height of fences are as follows:
  1. Any area of the lot that is between the main building and a side building line; and is also between the main building and either the front or rear building line: 6 feet.
  2. Rear Yards: 6 feet.
  3. Side Yards: 6 feet.
  4. Front Yards



## **DRAFT City of Muscatine, Iowa—Zoning Ordinance**

### *Chapter XXX: Fence Regulations*

- a. All portions of a front yard that are more than 25 feet from the front lot line: 6 feet
- b. Portion of front yards that are less than 25 feet from the front lot line :
  - i. Fences that are more than 25% opaque: 3 feet.
  - ii. Fences that are less than 25% opaque: 6 feet.

#### **5. Street Side Yards**

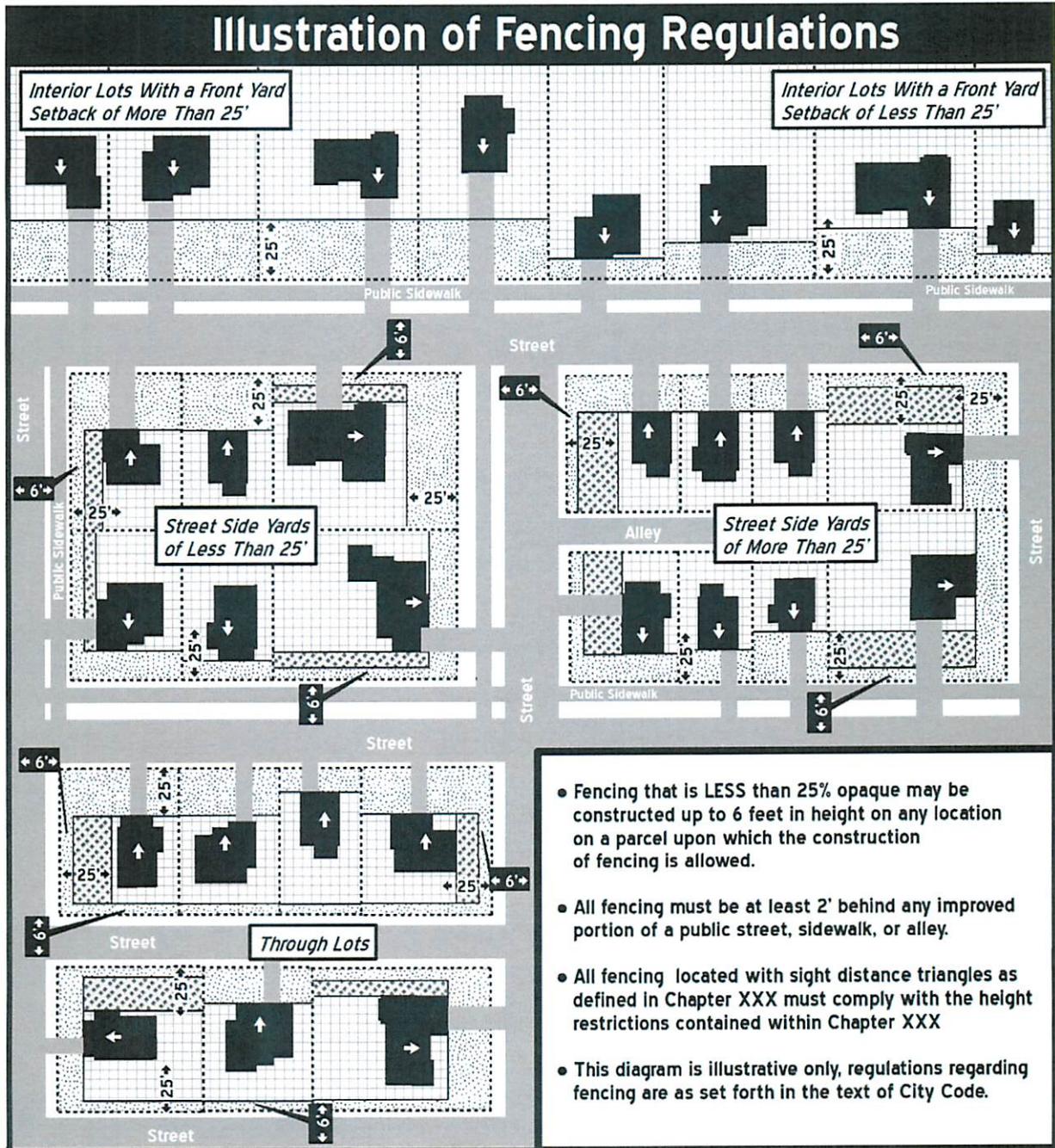
- a. All portions of a street side yard that are more than 25 feet from the street side lot line: 6 feet
- b. Portion of street side yards that are less than 6 feet from the street side lot line :
  - i. Fences that are more than 25% opaque: 6 feet.
  - ii. Fences that are less than 25% opaque: 3 feet.
- c. Portion of street side yards that are more than 6 feet, but less than 25 feet, from the street side lot line :
  - i. Fences that are more than 25% opaque: 4.5 feet (54 inches).
  - ii. Fences that are less than 25% opaque: 6 feet.
- d. All portion of a street side yard that are located between the main building and the side building line: 6 feet.

#### **6. Street Rear Yards**

- a. All portions of street rear yards that are more than 6 feet from the street rear lot line: 6 feet
- b. Portion of street rear yards that are less than 6 feet from the street rear lot line :
  - i. Fences that are more than 25% opaque: 3 feet.
  - ii. Fences that are less than 25% opaque: 6 feet.
- c. All portion of a street rear yard that are located between the main building and the rear building line: 6 feet

**D.** All fencing must be at least 2' behind any improved portion of a public street, sidewalk, or alley.

**E.** No fence shall contain barbed wire, razor wire, electrical current or charge of electricity, or similar hazardous materials or devices except in and those parcels in which the keeping of livestock is permitted.



**Legend**

-  Maximum Height of Fences that are more than 25% opaque: 3 Feet
-  Maximum Height of Fences that are more than 25% opaque: 4.5 Feet (54 Inches)
-  Maximum Height of Fences that are more than 25% opaque: 6 Feet
-  Building Footprint
-  Direction in Which the Front of the Building Faces
-  Property Line

**10-XXX-2 Regulations for Fences in Non-Residential Districts**

- A. Fences in non-residential districts shall comply with the following regulations.
- B. Barbed wire or similar materials are allowed, if located on top of a fence or wall that is at least 6 feet in height.
- C. No fence shall contain razor wire, broken glass or similar hazardous materials or devices.

**10-XXX-3 Sight Triangle**

All located with sight distance triangles as defined in Chapter XXX must comply with the height restrictions contained within Chapter XXX.

**10-XXX-4 Fencing Required Around Outdoor Pools**

A swimming pool, or other contained body of water of more than 24 inches or more in depth at any point and is intended for swimming, shall be enclosed by a fence or wall meeting the following criteria:

- A. Be entirely enclosed by at least a four foot wall, fence or other barrier as measured on the exterior side of the wall, fence or barrier.
- B. Have no openings in the wall, fence or barrier through which a spherical object 4 inches in diameter can pass. *Figure A.*

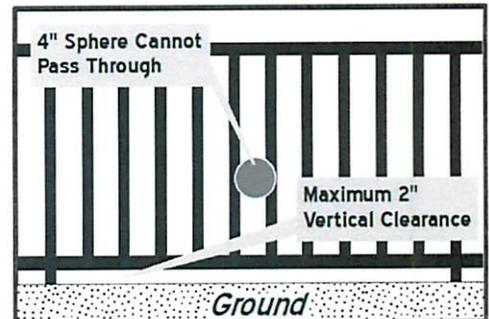


Figure A

- C. Have a vertical clearance between grade and the bottom of the wall, fence or barrier of less than 2 inches, as measured from the side of the wall, fence or barrier that faces away from the pool. *Figure B.*

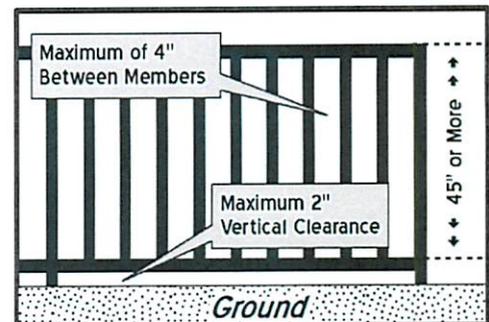


Figure B

When a wall, fence or barrier is composed of vertical and horizontal members and the distance between the tops of the horizontal members greater than or equal to 45 inches, spacing between vertical members shall not be greater than 4 inches. *Figure B.*

- D. When a wall, fence or barrier is composed of vertical and horizontal members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the wall, fence or barrier. *Figure C.*

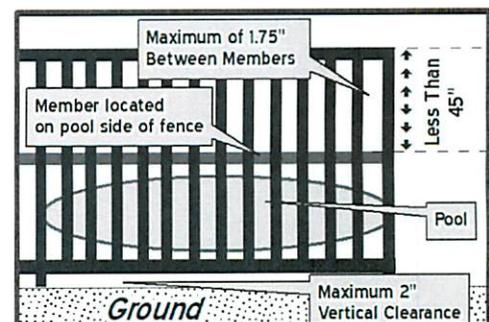


Figure C

Spacing between the vertical members shall not be greater than 1¾ inches. *Figure C.*

- E. Where there are decorative cutout on any vertical member, spacing within the cutouts shall not exceed 1¾ inches.
- F. When a wall, fence or barrier is composed of diagonal members, the openings formed by the diagonal members shall not be greater than 1¾ inches.
- G. Mesh size for chain link fences shall not be greater than a 2¼ inch square, unless the fence is provided with slats fastened at the top or bottom which reduce the size of the openings to 1¾ inches. *Figure D.*

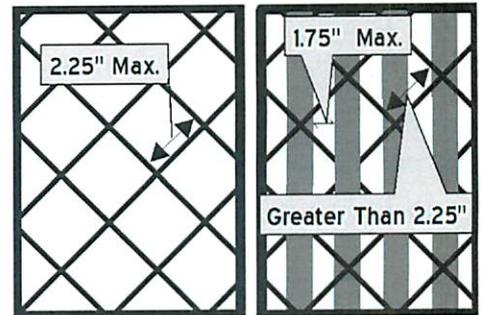


Figure D

- H. Gates for the enclosure shall:
  - 1. Be self-closing and self-latching.
  - 2. The latch shall be located:
    - i. At least 54 inches above the underlying ground or;
    - ii. Be located on the pool side of the gate with a release mechanism at least 3 inches below the top of the gate and no opening greater than ½ inch within 24 inches of the release mechanism.
  - 3. Open outward from the pool.
- I. The wall, fence or barrier shall not contain openings, handholds or footholds accessible from the exterior side of the enclosure that can be used to climb the wall, fence or barrier.
- J. Solid barriers which do not have opening(s) shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- K. When an aboveground pool structure is used as 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 shall be:
  - i. Capable of being secured, locked, or removed to prevent access, without creating any openings that would allow the passage of a 4 inch sphere, or:
  - ii. Surrounded by a wall, fence or barrier that meets all requirements contained within this Chapter.