

## Residential Fence Permits

Planning and Development Services Department

[www.opkansas.org](http://www.opkansas.org)

These requirements are contained in Overland Park Municipal Code (OPMC) 18.390.140 (Unified Development Ordinance) and in OPMC 16.100 (Building Code). This handout outlines fence requirements for one- and two- family residential structures. Please check with your Homeowner's Association for any private requirements, if applicable. Additional requirements may apply to fences on commercial property or in planned zoning districts.

A permit is required before construction begins when:

- A new fence greater than 16 feet in length and at least 4 feet in height is being constructed;
- An existing fence is being extended;
- An existing fence is being replaced with a new fence of a different size, at a different location or of a different design (e.g. a chain link fence being replaced by a wood privacy fence), or,
- More than 50 percent of the linear length of any existing fence is being replaced.
- A new fence of any dimension constructed in the regulatory floodway. Any fence constructed in the floodway additionally requires a floodplain development permit and no rise certificate.

A fence permit is not required if less than 50 percent of the length of an existing fence is being replaced and no changes are made to the fence size or materials. If less than 50 percent of an existing fence is being replaced, then the replacement fence must either be in compliance with the location and design requirements listed below or are identical to the existing fence (i.e., the same location, the same size and design, and constructed of the same materials). In addition, a fence cannot be replaced if it is located near a street intersection and impedes visibility in the sight distance triangle as defined in OPMC 18.420.060.

### PERMIT ISSUANCE

To obtain a fence permit, an application form and a plot plan or mortgage survey (site plan) must be submitted to the Building Safety Division on the second floor of City Hall, 8500 Santa Fe Drive. The plot plan must show:

- Where the new fencing is to be installed in relationship to the property lines or existing buildings.
- Where there is existing fencing that is to remain in place on, or adjacent to, the property.

In addition, a note should be placed on the plot plan indicating the height of the proposed fence and the type of fence construction. Typically, a plot plan is based on the property survey drawing usually done when a new house is built, or property is sold or mortgaged. If no such drawing is available, contact the Permit Services at (913) 895-6205 to determine if a plot plan for the property is on file with the city or if one can be created from city records. Once all required information is submitted, it will be reviewed for compliance with code requirements. Once the permit is approved, a permit fee will be charged based on the estimated cost of the fence construction.

All fences must be installed in compliance with the city's fence requirements and with the information shown on the plot plan and fence permit application form. Please call for a fence inspection at (913) 895-6220 after the fence has been installed.



## FENCE LOCATION

Fences must be located on private property and built with the consent of the property owner. It is the responsibility of the fence installer and/or property owner to correctly locate property boundaries. Where the location of a property line is unclear, please check with neighboring property owners before beginning construction or have the property surveyed. The city does not provide surveying services. The following rules apply in most cases, but please read the "Location Exceptions" section below for rules that apply in special situations.

- **Front yard** - Fences may not be located in the front yard or be positioned any closer to the front property line than the front surface of the residence.
- **Rear yard** - Fences can generally be located anywhere in the rear yard, except that fences cannot be located closer than 15 feet to any collector street or local street right-of-way. In addition, fences are not permitted in any platted landscape easement except when they are approved by the Planning Commission as part of a landscape/screening plan for a subdivision.
- **Side yard** - Fences can generally be located anywhere in the side yard, except that a fence cannot extend beyond the front surface of the residence and cannot be located closer than 15 feet to collector street or local street right-of-way. In addition, fences are not permitted in any platted landscape easement except when they are approved by the Planning Commission as part of a landscape/screening plan for a subdivision.
- **Drainage ways** - Per OPMC 7.54.250 (Health and Sanitation) fences may be erected in drainage ways and swales provided they do not unnecessarily restrict the flow of water. For more information contact the Engineer of the Day at (913) 895-6223 prior to erecting the fence.
- **Utility Easements** - The city does not prohibit construction of fences in utility easements, but the fence installer and/or property owner assumes some risk by doing so. On a telephone, call 811 Kansas One Call for information on utility line locations.
- **Drainage Easements** - The city may restrict construction of fences in easements containing Public Drainage Facilities. Restrictions are outlined in Governing Body Resolution No. 3800. Contact the Engineer of the Day at (913) 895-6223 for additional information.

When a fence is built parallel to a street, it shall be set back 15 feet from the property line. Along nearly every street, there is an unpaved, publicly owned area on both sides of the pavement that is used for sidewalks and utility lines, called a street right-of-way. It is usually 10 to 12 feet back from the curb. Thus, a fence with a 15-foot setback requirement typically will need to be 25 to 27 feet back from the curb.

## LOCATION EXCEPTIONS

Below are some notable exceptions to the fence location requirements listed above.

1. **Landscape easements** - Private fences for an individual residence are not permitted within the easement. They can be located parallel to the easement line. Access to the easement for maintenance purposes must be provided via an opening or a gate unless the homeowner's association for the subdivision will state in writing that they provide the maintenance of the easement in lieu of each individual resident along the easement. A fence that is less than 16 feet in length and less than 4 feet in height, unattached to any other fences, is considered a landscape element and not a fence.
2. **Decorative entry fences** - Although fences are generally not permitted in the front yard, there is an exception for "decorative entry fences" provided they meet the following conditions: The fence must extend no further than 12 feet in front of the front surface of the home and cannot be closer than 15 feet to any street right-of-way.
  - a) The fence must be located in front of the main entry to the home and cannot extend beyond either side of the home.



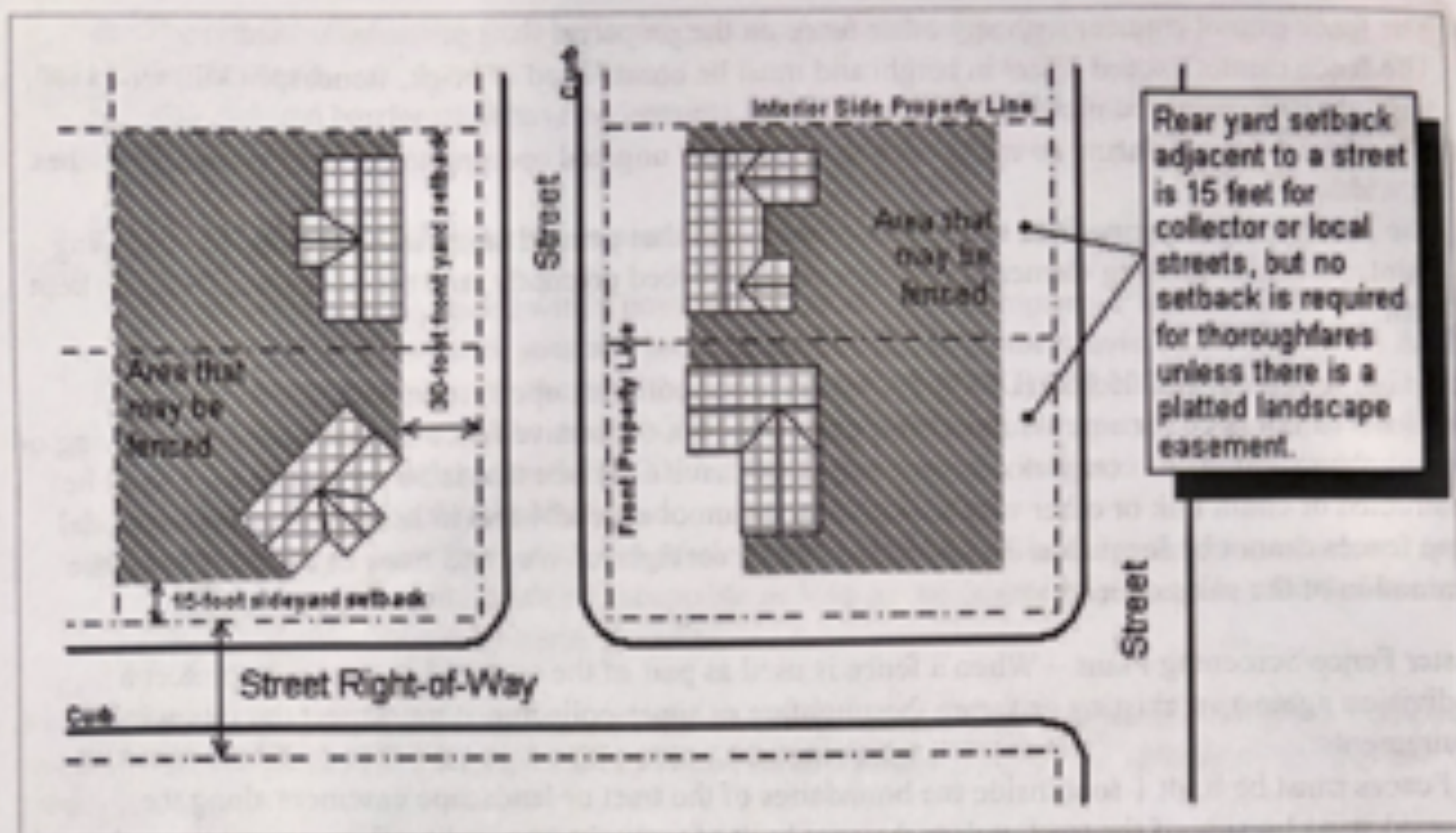
- b) The fence cannot connect with any other fence on the property.
  - c) The fence cannot exceed 3 feet in height and must be constructed of brick, stone, split rail, wood rail, wrought iron or spaced pickets.
  - d) The fence must not define an enclosed area without an ungated opening to the yard at least 36 inches in width.
  - e) The fence must be maintained in good condition such that painted areas have no chipped or peeling paint, broken or missing elements are repaired or replaced promptly, and the base of the fence is kept neat.
3. Model home fences, 18.245.050 (UDO) - A model home complex operated in conjunction with a residential sales office for a new subdivision may include a decorative fence in the front yard enclosing or defining the extent of the complex. Such fences must have a surface that is 50 percent open, cannot be constructed of chain link or other wire materials and cannot exceed 4 feet in height. In addition, model home fences cannot be located in any portion of the street right-of-way and must be removed upon the termination of the sales office.
4. Master Fence/Screening Plans - When a fence is used as part of the required screening to protect a subdivision against an existing or future thoroughfare or super-collector, it must meet the following requirements:
- a) Fences must be built 1 foot inside the boundaries of the tract or landscape easement along the residential lot side of the tract, unless they are built of wrought iron, split rail, or a similar see-through material.
  - b) All fences may be no closer than 5 feet from the right-of-way line of the abutting thoroughfare or super-collector.

## DESIGN STANDARDS

The following design standards apply to any new fence or wall or the replacement of any fence where the length of the replacement fence exceeds 50 percent of the length of the existing fence (i.e., any fence requiring a permit).

- Height - The maximum height of any fence is eight feet above average grade.
- Design - All fences and walls shall be constructed with a finished surface facing outward from the property. Any posts or support beams shall be inside the finished surface or designed to be an integral part of the finished surface.
- Gate - All fence segments abutting a thoroughfare, except for corner lots, must provide one gate opening per lot to allow access to the area between the fence and the street pavement for maintenance and mowing. An exception may be granted if the city receives a letter from the Home Association stating the area is maintained by the Home Association and not by individual homeowners.
- Sight distance triangles - Fences or walls constructed near street intersections are required to stay clear of an area known as the "sight distance triangle" in order to provide a reasonable degree of traffic visibility. See OPMC 18.420.060 for more information.





## SWIMMING POOLS, SPAS, AND HOT TUBS

Outdoor residential swimming pools, spas, and hot tubs are required to be protected by a barrier designed to restrict access by children. If a fence is intended to serve as the required barrier, it must meet the following requirements in addition to those that apply to all fences.

- **Height** - The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches.
- **Openings** - Openings in the barrier shall not allow the passage of a 4 inch diameter sphere. Where a barrier is composed of horizontal and vertical members, and the distance between the tops of the horizontal members shall be equal to or greater than 32 inches. Where vertical members are spaced 1 ¼ inches or less the horizontal members shall be allowed to be spaced at a distance less than 32 inches. The horizontal members shall be located on the swimming pool side of the fence. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions, except for normal construction tolerances and tooled masonry joints.
- **Design** - Maximum mesh size for chain link fences shall be a 2 ¼ inches square, unless the fence has slats fastened at the top or the bottom which reduce the openings to not more than 1 ¼ inches. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1 ¼ inches.
- **Gates** - Access gates shall comply with above and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates, other than pedestrian access gates, shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism and openings shall comply with the following.



- a) The release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate; and
- b) The gate and barrier shall have no opening larger than  $\frac{1}{2}$  inch within 18 inches of the release mechanism.

Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:

- a) The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346. When a safety cover is provided, spas and hot tubs are exempt from the provisions of Appendix AU105.2.
- b) Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches above the threshold of the door; or
- c) Other means of protection, such as self-closing doors with self-latching devices, which are approved by the Governing Body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by items a) and b)

*The City of Overland Park does not warrant the accuracy, completeness, or timeliness of the information contained in this handout. To verify the city requirements please refer to the official version of the Municipal Code.*