

ORDINANCE 344 published on Sept. 11, 2018.

**AN ORDINANCE OF THE CITY OF PAWNEE ROCK, KANSAS, REGULATING THE USE OF FENCES ON A TEMPORARY AND PERMANENT BASIS WITHIN THE CITY; DEFINING TERMS; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.**

BE IT ORDAINED AND ENACTED by the Governing Body of the City of Pawnee Rock, Kansas:

**CHAPTER IV BUILDING AND CONSTRUCTION.**

**ARTICLE 8 FENCES.**

**4-801 CLASSIFICATION OF FENCES.**

For the purposes of this article, fences are hereby classified under the following structure types:

Type 1: Masonry walls.

Type 2: Ornamental iron.

Type 3: Woven wire or chain link

Type 4: Wood picket (more than 50% open)

Type 5: Solid fences (wood or metal or other material less than 50% open).

**4-802 DEFINITIONS:** applicable for this ordinance.

Residence- used or intended to be used primarily for human habitation.

Structure - shall mean anything constructed or erected on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

Fence - a structure which encloses real property wholly or partially to impede ingress (entry) and egress (exit).

**4-803 INSTALLATION PERMIT REQUIRED; APPLICATION FEE.**

No person shall install, erect or substantially replace any fence without first having obtained a permit authorizing the work to be done. Application for a permit shall include the location and legal description of the property, name of the record owner of the property, name of permittee, classification and height of fence, location as shown on a plot plan, estimated cost and estimated time of completion. Upon placing a fence near or to the property line, the following requirements are to be met: a) A signed and notarized affidavit by both property owners if they agree on the location of a property line and pins location. b) The property owner or permittee requesting the permit must validate that their property line(s) and structure dimensions on the site plan are correct. A permit is required when you are

reconstructing more than half of the linear length of your entire fence. A fee shall be charged for such a permit, see 4-203(c)iii.

**4-804 REQUIREMENTS FOR LOCATION WITHIN RESIDENCE AREAS.**

Fences located within any residential area shall conform to the following requirements:

(a) Front Yard. Front yard fences erected for residence or business shall be of any class and shall not exceed a height of three feet; provided woven wire or chain link fences may be erected to height of four feet where their erection and subsequent maintenance does not present an obstruction to vision or create a hazard to vehicular traffic. Fences on corner lots in which the rear yard abuts the front yard of the adjoining lot shall conform to requirements for front yards fences for such part of the fence as abuts the adjoining front yard.

(b) Side Yard. Side yard fences erected behind the front yard building line and within the required side yard of the lot may be of any class not over six feet in height provided that their erection and subsequent maintenance does not present an obstruction to vision that creates a hazard to vehicular traffic. Back of this point such side yard fences may be built to a height of 6 feet.

(c) Rear Yard. Rear yard fences erected along the rear property line may be of any class and may be built to a height of 6 X feet.

(d) Prohibited Fencing. No barbed wire or other sharp pointed fence shall be erected or maintained within the boundaries of the city. No person shall erect or maintain an electrically charged fence.

(e) Fences on Retaining Walls. In case of a fence erected on top of a retaining wall, the height shall be measured from the grade of the low side; provided that in any case, a fence of Class 2, 3, 4, or 5 may be erected on top of a retaining wall to a height not to exceed three feet above the grade of the high side.

(f) Retaining Walls: Design. Retaining walls shall be adequately designed and drained to resist all lateral pressure to which they may be subjected. Retaining walls shall not be erected in any front yard when, in the opinion of the building inspector, such retaining wall would be unsightly or detrimental to adjoining property. Nor shall such retaining wall be built higher than the grade of the ground on the high side of the wall when such would exceed the height allowed for a Class 1 fence, which height is measured from the low side of the wall.

**4-805 REQUIREMENT FOR COMMERCIAL OR INDUSTRIAL FENCES.**

Commercial or industrial fences may be of any class and the height thereof shall not exceed 10 feet; provided, that when such fences are built in requirement building setback or yards as set by the city, they shall be governed by the requirements as set forth in this article. Barbed wire or similar materials may be used at a height of not less than seven feet above grade, unless otherwise provided in this article.

**4-806 PROTECTIVE FENCES AROUND SWIMMING POOLS.**

Private swimming pools having a water depth of two (2) feet or more shall be protected by a fence or other permanent structure at least four (4) feet in height. The protective enclosure shall only apply if there are no other fence enclosing the property from ingress or egress.

**4-807 MAINTENANCE AND REPAIR OF FENCES.**

Fences shall be kept in repair and any dilapidated, dangerous or unsightly fence shall be removed or repaired when so ordered by the building inspector or ordinance official.

**4-808 CERTAIN FENCES, WALLS DEEMED NUISANCES; NOTICE TO REPAIR OR REMOVE.**

Any fence or wall here and after erected or maintained contrary to the provisions of this article is hereby declared to be a nuisance and shall be removed or repaired by the owner thereof or by the person occupying the premises on which it is located within ten days after receipt of notice from the building inspector or ordinance official to repair or remove the same.

**4-809 NONCONFORMING FENCES.**

Nonconforming fences which may be continued:

(a) The following lawful nonconforming fences may be continued:

- (1) A fence which existed prior to the effective date of this Ordinance.
- (2) A fence existing at the time of an annexation.

(b) The lawful use of a fence located upon any land may be continued although such fence does not conform with the provisions of this article. Such fence may be continued if no structural alterations are made except those required by law or ordinances. The foregoing provisions shall also apply to any fences which may be made nonconforming by any subsequent amendment or change of this article.

(c) A nonconforming fence, in the opinion of the building inspector or ordinance official, has been damaged to the extent of more than 50 percent of its structural value by fire, explosion, act of God, or the public enemy shall not be restored except with the provisions of this article.

**4-810 UNLAWFUL ACTS.**

Violation of any part of this ordinance is an unlawful act.

(a) Electric Fence. No person shall erect or maintain an electrically charged fence.

(b) Erect or Maintain on Easement, Utility Easement or Public Right-of-Way. No person shall erect or maintain any privately-owned fence or structure on any right-of-way or easement granted or dedicated

to the city. This would also include use for public utility or street purposes, including but not limited to sewer pipes and drains, gas or water pipes and lines, power or electric cables and lines, telephone and television cables and lines, and all necessary appurtenances thereto.

No person shall prevent, hinder or otherwise interfere with city, public or private utility officials or companies in the use of said easements or right of ways or accessing lines or pipes.

(c) Based upon 1997 Uniform Building Code Volume 1; Chapter 32, Construction in Public Right of Way; pages 1-295.

Section 3201- General: No part of any structure or any appendage thereto, except signs, shall project beyond the property line of the building site, except as specified in this article.

Structures or Appendages regulated per code shall be constructed of materials as specified in Section 705

The projection of any structure or appendage shall be measured horizontally from the property line to the outer - most point of projection.

(d) Exterior fenced enclosures shall have not less than one means of egress.

(e) Inspection. The ordinance inspector shall inspect all fences installed or erected for compliance with the regulations of this article.

(f) Failure to Comply. No person shall fail to comply with any other order issued by the ordinance official or his or her designee, pursuant to regulations contained in this article. Failure to comply would be a fine up to \$50.00.

#### **4-811 SEVERABILITY.**

If for reason any section, subsection, sentence, clause or phrase of this article is declared to be unconstitutional or invalid, such decision shall not affect the validity of any remaining section, subsection, sentence, clause or phrase of this article.

#### **4-812 PENALTY.**

The ordinance officer may file a complaint in the municipal court against any person found to be in violation of this section provided however, that such person shall first have been sent a notice. That the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified. Upon such complaint in the municipal court, any person found to be in violation of section no. 4-810 shall upon conviction be punished by a fine of not less than \$25.00 nor more than \$50.00 for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist.

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**4-813 ABATEMENT AND COST ASSESSED:** Refer to Chapter VIII. Health and Welfare; Article 3; Section 8-310, 8-312, and 8-313.

**EFFECTIVE.** This Ordinance shall take effect and be in force from and after its publication in the official city newspaper or from and after compliance with K.S.A. 2012S.rpp.12-300(7b).

**PASSED BY THE CITY COUNCIL OF THE CITY OF PAWNEE ROCK, KANSAS,** this 4<sup>th</sup> day of September, 2018

**APPROVED: MAYOR:** *Linda Waite*

**ATTEST: CITY CLERK:** *Cathy Groves*

**APPROVED AS TO FORM: CITY ATTORNEY:** *[Signature]*



