

CHAPTER 16.

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Article I. Excavations.Sec. 16-1. "Parcel of land" defined.

"Parcel of land," as used in this article, means a contiguous quantity of land, in the possession of, or owned by, or recorded as the property of, the same claimant or person. (Mun. Code, Sec. 4400)

¹As to excavations in public streets, see Secs. 38-76 to 38-105 of this Code.

Sec. 16-2. Fence required--Generally.

Every person making, maintaining or using any oil well sump, and every person making, maintaining or using any other man-made excavation three feet or more in depth, and every person owning or having possession of any premises on which such excavation exists, shall either cover such excavation or erect and maintain around such excavation at all places, if an oil sump and in other cases at all places where the slope is steeper than one foot vertical to two feet horizontal if not under water, or one foot vertical to four feet horizontal if under water, a fence not less than five feet high mounted on steel posts with not less than three strands of barbed wire mounted at a forty-five degree angle from the top of the fence. Such fence shall be constructed of chain link or other industrial type fencing of not less than nine gauge wire and of not greater than two inch mesh. The posts supporting such fence shall be set thirty-six inches in a concrete base and shall be spaced approximately ten feet apart. Tension wires of at least No. 9 gauge coil spring wire, or equivalent, shall be stretched at the top and bottom of the fence fabric and fastened to the fabric at twenty-four inch intervals. Gates shall be of a structure substantially the same as the required fence and shall be kept locked when not attended by an adult. There shall be no apertures below the fence large enough to permit any child to crawl under such fence. (Mun. Code, Sec. 4401)

Sec. 16-3. Same--Exceptions.

Section 16-2 does not apply to:

- (a) An oil sump constantly and immediately attended while drilling operations are continuously proceeding.
- (b) An excavation covered by sections 24400, 24401 or 24402 of the Health and Safety Code.
- (c) An excavation more than one-quarter mile from the nearest highway and within one-half mile of which excavation there are less than twenty residences.
- (d) An excavation for the installation of a public utility, if not abandoned.
- (e) An excavation in connection with the construction of a private residence, if not abandoned.
- (f) A swimming pool, fish pond or wading pond on the same lot or parcel of land as a private residence.
- (g) An excavation not more than one-half mile in length which becomes a portion of a natural watercourse. (Mun. Code, Sec. 4402)

Sec. 16-4. Cleaning oil well sumps, ditches, etc.

Every person operating or maintaining an oil well shall cause all sumps, cellars and ditches which were used, installed or maintained for use in connection with any well and which have not been used for ninety days for the operation of, or the drilling of such well or any other well in the vicinity, to be cleaned out and all oil, rotary mud and rubbish removed therefrom. (Mun. Code, Sec. 4403)

Sec. 16-5. Artificial lakes.

Where a man-made excavation is filled with water so that the area of the surface of such water exceeds one acre and the nature of the excavation and water is such as to constitute an artificial lake, a fence or barrier is not required by this article at any portion of the boundary of such excavation where:

- (a) The edge of the excavation is not more than one foot above the surface, or at no place is the slope to the water greater than one foot vertical to four feet horizontal.
- (b) The slope in the water is not greater than one foot vertical to four feet horizontal to a depth of five feet. (Mun. Code, Sec. 4404)

Sec. 16-6. Notice to comply with article.

Whenever any person fails or refuses to perform any act required by sections 16-3 or 16-4, the sheriff shall serve upon such person in the manner required by law for the service of summons, a notice in writing requiring that such person, within ten days after the service of such notice, shall either:

- (a) Comply with this article, or
- (b) If such person is of the opinion that this article does not require him to comply with such notice, file a protest in writing with the city council.

If any such person cannot be found, the sheriff shall post such notice in a conspicuous place at or near the excavation, sump, cellar or ditch.

Compliance with this section is not a condition precedent to a criminal prosecution for a violation of any provisions of this article. (Mun. Code, Sec. 4405)

Sec. 16-7. Hearings by city council.

Upon filing of any protest the city council may adopt an order that the person protesting is not required to comply. If the city council does not adopt such an order it shall notify such person in writing not less than five days prior thereto, of the time and place of, and shall hold a public hearing to determine what acts, if any, this article requires the person filing such protest to perform. (Mun. Code, Sec. 4406)

Sec. 16-8. Actions by city council on protests.

Upon the hearing of any protest under this article the city council shall determine what acts, if any, this article requires the person filing such protest to perform. It shall notify in writing such person of its decision. (Mun. Code, Sec. 4407)

Sec. 16-9. Performance of work by city upon property owner's refusal to do so.

If a person is notified, as provided in this article, to comply with the requirements of this Code and neither complies nor protests within the ten days provided for, or if a person protests and the city council decides that such person should perform certain work and for ten days after notice of such decision does not do so, the city shall cause the work to be performed at city expense. (Mun. Code, Sec. 4408)

VERSION 10/2007

Sec. 16-10

Sec. 16-16

Sec. 16-10. Report of city's expenses under article--Required.

The city manager shall keep an account of the cost of all work performed at city expense pursuant to this article and shall render an itemized report to the city council showing the cost of protecting each separate excavation, sump, cellar or ditch, upon each separate parcel of land. (Mun. Code, Sec. 4409)

Sec. 16-11. Same--Posting.

Before the report of the city's costs under this article is submitted to the city council, a copy of it shall be posted for at least three days on or near the chamber door of the council with a notice of the time when the report will be submitted to the council for confirmation. (Mun. Code, Sec. 4410)

Sec. 16-12. Same--Mailing to property owners.

A postcard notice of the time and place of the submission of the report on the city's costs under this article for confirmation, stating generally the nature of the report, shall be mailed by the council to the owners of the parcels who have filed with the council a written request for postcard notice within one year prior to the date of mailing the notice, at least seven days prior to the date of submission for confirmation. (Mun. Code, Sec. 4411)

Sec. 16-13. Same--Hearings.

At the time fixed for receiving and considering the report of the city's expenses under this article, the city council shall hear it and any objections of any property owners liable to be assessed for the work of protection. (Mun. Code, Sec. 4412)

Sec. 16-14. Same--Recording.

The city council shall record a certified copy of the report in the office of the county recorder. (Mun. Code, Sec. 4414)

Sec. 16-15. City's expenses under article constitute lien on property.

The amounts of the costs for the protection work upon the various parcels of land mentioned in the report of the city's costs under this article as confirmed shall constitute liens on such parcels for the amounts expended thereon by the city. (Mun. Code, Sec. 4413)

Sec. 16-16. Collection of city's expenses.

The city may bring appropriate actions in courts of competent jurisdiction to collect any amounts due for work of protecting excavations performed by the city and to foreclose liens for such amounts. (Mun. Code, Sec. 4415)

Article II. Artificial Pools.

Sec. 16-17. Fences--Required.

All swimming pools or any other type of artificially created pools, whether publicly or privately owned, two feet or more in depth shall be surrounded by a protective fence as described in this article. Such fence may enclose the pool itself or the entire premises in which the pool is located. (Mun. Code, Sec. 4450)

Sec. 16-18. Same--Construction generally.

- (a) If a protective fence required under this article is constructed of wood, it shall conform to all of the following requirements and specifications:

Redwood or pressure treated posts not less than three inches by three inches, set not more than ten feet apart, embedded at least eighteen inches in the ground. Vertical boards at least one-half inch thick shall be fastened securely to not less than two horizontal rails at least two inches by three inches in dimension.

- (b) If such fence is constructed of wire, the same shall conform to all of the following requirements and specifications:

Galvanized wire mesh, minimum eleven gauge, with galvanized pipe posts of at least one and one-fourth inches diameter spaced not more than ten feet apart. Posts shall be set not less than twelve inches in concrete, in post holes six inches in diameter and eighteen inches deep.

- (c) If such fence is constructed of masonry, the same shall conform to all of the following requirements and specifications:

Shall have a concrete footing at least twelve inches wide and six inches thick, with bottom not less than twelve inches below ground surface. Any wall reinforcing steel shall be embedded in the footing.

- (d) All such fences required by this article shall be not less than five feet ten inches aboveground level at all places.

- (e) No such fences required by this article shall have any openings, except gates conforming to the specifications of subsection (f) of this section, unless such openings are not more than fifty square inches in area, each, or not more than four inches in maximum horizontal dimension, each.

- (f) Any gate in such fence required by this article shall meet all requirements and specifications required for height and durability as to such fence itself. Each such gate shall be self-closing, and self-latching by means of a device located not less than four feet above the ground. (Mun. Code, Sec. 4451)

VERSION 10/2007

Sec. 16-19

Sec. 16-20

Sec. 16-19. Same--Alternate types.

- (a) Any type of fence construction, other than that specified in subsection (f) of section 16-18, shall be approved by the city engineer before the fence is erected.
- (b) Where a fence is not provided, the pool shall be kept under the continuous observation of a competent person during any period it contains water or it shall be provided with a covering device approved by the city engineer.
- (c) Complete plans and details must be submitted in triplicate to the city engineer before any alternate type of fence may be approved. (Mun. Code, Sec. 4452)

Sec. 16-20. Construction permits; compliance with article required prior to use.

- (a) For the construction of a new swimming pool, or of a fence over six feet in height, a building permit must be obtained from the city engineer. No permit or inspection is necessary for a fence around an existing pool unless the fence exceeds six feet in height, or retains more than three feet of earth or other material.
- (b) No owner or occupant of any premises on which is located any swimming pool or other artificially created pool, publicly or privately owned, more than two feet in depth, shall permit any person to enter or use any such pool unless such premises comply with the requirements and provisions of this article in all respects. (Mun. Code, Sec. 4453)

(Mun. Code, Secs. 4400, 4401, 4402, 4403, 4404, 4405, 4406, 4407, 4408, 4409, 4410, 4411, 4412, 4413, 4414, 4415, 4450, 4451, 4452, 4453)