

CHAPTER 17

DEFINING A LAWFUL FENCE IN HOWELL TOWN

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CHAPTER 17

DEFINING A LAWFUL FENCE IN HOWELL TOWN

Section 17-1. Definition of a Lawful Fence:

- A. A lawful fence for the entire incorporated area of Howell Town is hereby declared to be a fence made of boards, poles, slabs, or wire as more particularly described below, herein:
1. When the fence is made of boards, poles, or slabs, said fence shall be at least forty-two (42) inches high, and the boards, poles, or slabs shall be parallel between the fence posts, shall not be more than twelve (12) inches apart, the same to be supported by good solid posts not more than sixteen and a half (16 ½) feet apart.
 2. When the fence is made of wire, said fence shall consist of not less than four strands, with the top wire being not less than forty-two (42) inches above the ground. Said wires are to be parallel and the distance between the top wire and the ground to be equally divided, and all wires shall be stretched. The posts supporting said wires are to be good and solid. If the posts are placed over eighteen (18) feet apart but not more than twenty-seven (27) feet apart, there must be at least one jumper or stay evenly distributed between said posts. If the posts are placed over twenty-seven (27) feet apart but not more than thirty-three (33) feet apart, there must be at least two jumpers or stays evenly distributed between said posts and they must be well fastened to all the wires. The posts must not be at a greater distance than thirty-three (33) feet apart.
 3. An electric or electrified fence shall have (a) a single wire or braided cord, with three ground probes/rods placed beneath the surface to the depth of at least four (4) feet, with a ground wire attached to each probe/rod, or (b) multiple wires or cords, with one wire/cord being the ground wire/cord, attached to a fence post by insulators so that the insulated wires may carry an electric charge. The electric power source may be directly connected to utility power system or may be solar with an adequate battery system, and must produce a minimum 5 joules or 2000 volts at the power source, with not less than 1000 volts at any given point throughout the connected system.
- B. Pre-existing Fence. Notwithstanding any of the foregoing to the contrary, a fence that was in place prior to the adoption of this Ordinance (hereinafter the “pre-existing fence”), and which under the terms of this Ordinance would otherwise be non-conforming hereto, may continue in existence so long as said pre-existing fence remains in good repair and serviceable condition. In the event that the pre-existing fence becomes inadequate or insufficient to meet the requirements of this Ordinance so as to restrict the movement of livestock as contemplated herein, that pre-existing

fence shall be replaced or repaired in such a manner so as to conform to the requirements of the Ordinance.

- C. The definitions of fencing in this Ordinance are to be interpreted for agricultural use only. Residential fencing shall conform to those applicable provisions of the Howell Town Land Use and Development Regulations and the Utah State Code.

Section 17-2. Fence In – Standard:

The owners of real property located within the incorporated area of Howell Town, shall have the duty to fence in domestic livestock with a lawful fence, as defined in this Ordinance, to keep such livestock from grazing, moving, or being present upon real property of another person without prior written consent of the property owner.

Section 17-3. Construction:

This Ordinance shall incorporate and be interpreted in accordance with all other applicable state law.

Section 17-4. Repealer of Conflicting Enactments:

All orders, ordinances and resolutions with respect to the changes herein enacted and adopted, or parts thereof, which have heretofore been adopted by the Town which are in conflict with any of the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 17-5. Prior Ordinances and Resolutions:

The body and substance of any and all prior Ordinance and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are hereby reaffirmed and readopted.

Section 17-6. Penalties.

The town shall record each violation of this ordinance and shall give notice of violation to each person who fails to comply with the Ordinance. In addition to any civil damages the livestock owner may be subject to for failing to comply with this Ordinance, the Town may impose a fine of not more than \$250.00, for each violation after being notified once of a violation of this Ordinance. Any person who violates this Ordinance more than three times after being notified of each violation, shall be subject to a fine of not more than \$500.00, in addition to civil damages at law or applicable criminal charges under the Utah criminal code.