

Agenda Report

September 3, 2013 City Council Meeting

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Item No. 9

ISSUE: UPDATE SWIMMING POOL CODE REQUIREMENTS TO ADOPT SOME OF THE STANDARDS IN THE 2012 INTERNATIONAL POOL AND SPA CODE STANDARDS

This will be the first reading for review of Chapter 155: Specific Provisions Dealing with Swimming Pools.

BACKGROUND:

Staff has amended the pool code based on comments from the last meeting and from owners of pools. All issues are now addressed and should satisfy any pool owner while still providing the level of safety recommended from the 2012 International Pool and Spa Code.

Changes from the last meeting include:

1. Added language in the definition of swimming pool to clarify temporary versus permanent pools and clarification that the requirements do not apply to ponds as was a concern at the last Council meeting.
2. Made clear that in-ground swimming pools do not require a barrier as long as they have a power safety cover. They have the option of either having the power safety cover or the barrier; they are not required to have both.
3. Spas do not have to meet barrier requirements if they comply with ASTM F 1346 (which would be a tag that comes with the spa) or it can have a lockable cover (this was recently added).
4. If the pool owner is using the barrier option for their in-ground pool and are using the dwelling wall as part of that barrier (Section 7(H)); they have to meet only 1 of the requirements in the list. The option of equipping the pool with an underwater motion swimming pool alarm was added. Pool owners informed staff this may be a more cost effective item than an alarm installed on a door of the house.
5. The de-chlorination of the swimming pool requirement was removed and language to encourage pool owners to drain pool on the lawn first was added.

6. A major addition was the grandfathering clause section which should clear up a lot of confusion. This exempts any existing pool which has been in place before this code.

“Any person, either as owner or legal occupant, with an existing swimming pool shall be exempt from the new swimming pool requirements of this ordinance, until such time as the swimming pool is altered, enlarged or otherwise improved. Repairs to and maintenance of existing swimming pools including liner replacement, shall not be considered alterations or improvements.”

RECOMMENDATION:

Staff recommends the City Council approve Ordinance 13-09 on first reading only

STAFF CONTACTS:

Sheena Danzer, City Inspector/Zoning Administrator
Jason VanAusdall, Public Works Director
Jeffrey A. Fiegenschuh, City Administrator

ORDINANCE NO. 13-09

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF WINDSOR HEIGHTS, IOWA, BY AMENDING PROVISIONS PERTAINING TO THE SWIMMING POOL REQUIREMENTS, UNDER CHAPTER 155 OF THE MUNICIPAL CODE

Be it enacted by the City Council of the City of Windsor Heights, Iowa:

SECTION 1. AMENDMENT. Chapter 155 BUILDING CODE is hereby amended to read as follows:

Amending Swimming Pool Requirements

155.06 SPECIFIC PROVISIONS DEALING WITH SWIMMING POOLS.

1. Definitions. The following terms are defined for use in this section:

A. "Swimming pool" means any body of water which has a minimum depth of eighteen (18) inches or more or contains one hundred (100) gallons or more of water in an artificial or semi-artificial receptacle that is intended for swimming, wading or recreational bathing. This definition includes any structure that may be constructed, installed or located in-ground, partially in-ground or above-ground and which remains in place for more than one (1) week at a time. This definition also includes spas.

~~B. "Spa" means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use. However, "spa" does not include a facility used under direct supervision of qualified medical personnel.
(Code of Iowa, Sec. 135I.1)~~

~~C. "Small child" means any child twelve (12) years of age or younger.~~

2. Purpose. It is the purpose of this section to require architects, builders, contractors, pool suppliers, property owners, their agents, and others to meet their responsibilities with respect to proper construction, construction techniques, and premises safety and to provide for inspection as a means of compelling compliance therewith. It is not the purpose of this section to create any duty on the part of the City, its officers, agents, or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this section to create any duty or liability by the City, its officers, agents, or employees, to occupants of any premises, owners, tenants, or any other person.

3. Warning. No person shall place reliance upon this chapter, any inspections performed, or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any

premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

4. Interpretation. The foregoing statements of legislative intent shall govern and take precedence over any other language contained in this chapter.

5. Swimming Pool Permit; Fee. No person shall construct, enlarge, alter, or otherwise improve a swimming pool without first obtaining a permit for the same from the City's Building Official. Application for such a permit shall comply with the Administrative Code. A fee in an amount as established by resolution of the Council ~~the Building Code for valuation~~ shall be paid. Issuance of such a permit shall be in accordance with the Administrative Code and all applicable Building Codes.

6. Design Requirements. The materials used for lining swimming pools shall be light in color, shall be impervious, and shall provide a tight tank with smooth, easily cleaned surfaces. No sand or dirt bottoms shall be allowed.

7. Residential Swimming Pools. Residential swimming pools must be completely enclosed by a barrier as described below. Exception: an in-ground swimming pool with a [power] safety cover or a spa with either a safety cover complying with ASTM F 1346 or a lockable cover.

- A. Barrier height and clearances. The top of the barrier should be at least 72 inches above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier must be 2 inches measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier must be 4 inches.
- B. Openings. Openings in the barrier must not allow passage of a 4-inch-diameter sphere.
- C. Closely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members must be located on the swimming pool side of the fence. Spacing between vertical members must not exceed 1.75 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts must not exceed 1.75 inches in width.
- D. Widely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between vertical members must not exceed 4 inches. Where there are decorative cutouts within vertical members, spacing within the cutouts must not exceed 1.75 inches in width.
- E. Chain link dimensions. Maximum mesh size for chain link fences is 2.25 inch square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than 1.75 inches.
- F. Diagonal members. Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members is 1.75 inches.
- G. Gates. Access gates must comply with the requirements of a barrier and must be equipped to accommodate a locking device. Pedestrian access gates must open outward away from the pool and must be self-closing and have a self-latching device. Gates other than pedestrian access gates must 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 must be located on the pool side of the gate at least 3 inches below the top of the gate, and the gate and barrier must have no opening greater than 0.5 inch within 18 inches of the release mechanism.

H. Dwelling wall as a barrier. Where a wall of a dwelling serves as part of the barrier, **one of the following must apply:**

1. Doors with direct access to the pool through that wall must be equipped with an alarm which produces an audible warning when the door and its screen are opened. The alarm must sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm must automatically reset under all conditions. The alarm must be equipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation must last no more than 15 seconds. The deactivation switch must be located at least 54 inches above the threshold of the door.

2. The pool must be equipped with a power safety cover which complies with ASTM F 1346.

3. The pool must be equipped with an underwater motion swimming pool alarm.

4. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the administrative authority, may be accepted so long as the degree of protection afforded is not less than the protection afforded by item 1 or 2.

I. Pool structure as barrier. Where an aboveground pool structure is used as a 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 either must be capable of being secured, locked or removed to prevent access, or the ladder or steps must be surrounded by a barrier. When the ladder or steps are secured, locked or removed, any opening created can not allow the passage of a 4-inch-diameter sphere.

J. Prohibited locations. Barriers must be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

8. Locking of Covers. It is unlawful for the owner of any in-ground swimming pool which is not enclosed pursuant to subsection 7 hereof to leave said pool unattended without a cover of the type described in subsection 7(H) 2 hereof securely locked in place. As used herein, "unattended" shall mean the absence of an adult person in the outdoor swimming pool or within constant eyesight of said pool and no more than twenty (20) feet there from. This section does not apply if the pool meet the exceptions in subsection 7.

~~7. Enclosure for In Ground Pool. Every outdoor in ground swimming pool shall be completely surrounded by a fence or wall at least six (6) feet in height and located at least six (6) feet from the side of the pool, unless the enclosure is a part of a pre-manufactured assembly, in which case it shall be no closer than four (4) feet from the side of the pool. Such fence or wall shall be reasonably non-climbable and shall be so constructed and maintained as to make such pool as inaccessible as possible to small children. There shall not be a distance greater than ten (10) feet between posts. The bottom of said fence or wall shall be at grade with no clearance between the bottom and the ground along the entire perimeter of the fence or wall. The six foot height will be determined based upon the ground elevation on both sides of the wall or fence.~~

~~8. Enclosure for Above Ground Pools. In lieu of the above, swimming pools manufactured and approved for installation above ground shall be installed in accordance with the following criteria:~~

~~A. When not in conflict with the provisions of this subsection, above ground pools shall be installed in accordance with the manufacturer's recommendations.~~

~~B. Enclosure of an above ground swimming pool shall be accomplished in an approved manner that will reasonably secure the pool and any deck or platform attached thereto from unauthorized access to small children and shall provide a degree of security at least the equivalent of that required for in ground swimming pools. For the purpose of this requirement, a fence or wall, at least six feet above any adjoining grade located within six feet of the pool enclosure, shall be used in combination with the vertical water enclosing wall of the swimming pool to provide the required degree of security, unless the enclosure or fence is part of a pre-manufactured assembly, in which case it shall be no closer than four (4) feet from the side of the pool.~~

~~J. Steps, ladders, ramps, or any other device affording access to the pool shall be constructed in a manner that will afford the same degree of security against unauthorized access as that prescribed for the pool enclosure.~~

~~K. For the purpose of this subsection, no part of a swimming pool enclosure shall be constructed within ten feet of a property line, other wall, fence, or other structure, which can be readily climbed by children under the age of twelve years of age.~~

~~9. Gates and Doors. All gates and doors providing access to the pool shall be equipped with self-closing and self-locking devices and said gates and doors shall be securely closed when the pool is not in use. The self-closing and self-locking device on such gates and doors shall be equipped either with a manual latch which can only be operated at a point five (5) feet above the ground or with a lock and key.~~

~~9. Periodic Inspections. Persons maintaining an outdoor swimming pool shall be deemed to consent to periodic inspections of the pool and surrounding property at reasonable times by City employees, to assure compliance with this chapter. All pools built after the effective date of the ordinance codified herein shall comply with the terms of this chapter.~~

~~12. Enclosure for Spas. The enclosure requirements contained in subsections 7 and 8 above may be satisfied in the case of outdoor swimming pools with a water surface area of less than sixty (60) square feet by equipping same with a rigid cover capable of supporting two hundred (200) pounds which, when securely locked in place, will render the water contained therein inaccessible to a person not having a key.~~

~~10. Wastewater. Swimming pool wastewater shall be disposed of only through the months of by extending the filtered discharge pipe to the City right of way except in the months of October through April. Disposing of the wastewater is encouraged to be drained on the grass of the property to allow water to percolate into the ground.~~

~~11. Wiring. The construction and installation of electric wiring for and equipment in or adjacent to all swimming pools shall comply with the *National Electrical Code*. ~~Any permanent wiring will require an electrical permit with the City.~~~~

~~12. Indemnity. The applicant for any permit for a swimming pool by making such application, assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person or persons whomsoever, including all costs and expenses incident thereto, arising from or in connection with or related to the issuance of such permit or the doing of anything thereunder, or the failure of such applicant or the agents, employees, or servants of such applicant, to abide by or comply with any of the provisions of this code or any other ordinance of the City; and such applicant, by making such application, forever indemnifies the City, its officers and employees, and agrees to save it and them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury or death, costs and expenses, by reason of the foregoing even though acts or omissions of the City, its officers or employees, may have caused or contributed thereto. The foregoing provisions shall be deemed~~

to be a part of any permit whether expressly recited therein or not and shall apply to all assigns, assignees, subsequent owners, renters, or occupants of said property.

13. Grandfather Clause. Any person, either as owner or legal occupant, with an existing swimming pool shall be exempt from the new swimming pool requirements of this ordinance, until such time as the swimming pool is altered, enlarged or otherwise improved. Repairs to and maintenance of existing swimming pools including liner replacement, shall not be considered alterations or improvements.

SECTION 2. REPEALER. All parts of the "MUNICIPAL CODE OF ORDINANCES OF THE CITY OF WINDSOR HEIGHTS, IOWA" in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this Ordinance as a whole or any section, subsection, provision, sentence, clause, phrase or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This Ordinance shall be in effect from and after its final passage, approval and notice of its passage is given as provided by law.

Passed by the City Council this 3rd day of September, 2013 and approved this ____ day of October, 2013

David J. Sullivan, Mayor

Attest:

Jeff Fiegenschuh City Administrator

First Reading, September 3, 2013

Burgess: _____

Glover: _____

Jenison: _____

Willits: _____

Butz: _____

Second Reading, September 16, 2013

Burgess: _____

Glover: _____

Jenison: _____

Willits: _____

Butz: _____

Third Reading: October 7, 2013

Burgess: _____

Glover: _____

Jenison: _____

Willits: _____

Butz: _____