

ORDINANCE NO. 2005-02-01

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AN ORDINANCE OF THE CITY OF WESTON, TEXAS, COLLIN COUNTY, TEXAS, REQUIRING THAT ALL SWIMMING POOLS, SPAS AND HOT TUBS BE APPROPRIATELY ENCLOSED; PROVIDING FOR EXCEPTIOS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE.

WHEREAS, the City of Weston, Texas is a Type A general-law municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, Subchapter C of Chapter 214.101 of the Local Government Code ("Code") provides that a municipality may by ordinance establish minimum standards for swimming pool fences and enclosures and may adopt other ordinances as necessary to carry out the provisions of said Subchapter; and

WHEREAS, the City Council deems it in the best interests of the public health, safety and welfare to adopt minimum standards for swimming pool, spa and hot tub enclosures in accordance with Chapter 214 of the Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS:

Section 1. Definitions

For the purposes of this Ordinance, the following definitions shall have the meanings ascribed to them below:

- (1) "Multiunit rental complex" means two or more dwelling units in one or more buildings that are under common ownership, managed by the same owner, managing agent, or management company, and located on the same lot or tract of land or adjacent lots or tracts of land. The term includes a condominium project. The term does not include:
 - (A) a facility primarily renting rooms to overnight guests; or
 - (B) a single-family home or adjacent single-family homes that are not part of a condominium project.

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- (2) "Property owners association" means an association of property owners for a residential subdivision, condominium, cooperative, town home project, or other project involving residential dwellings.
- (3) "Self-closing and self-latching device" means a device that causes a gate to automatically close without human or electrical power after it has been opened and to automatically latch without human or electrical power when the gate closes.
- (4) "Spa/hot tub" means a body of water, at least 18 inches deep, in an artificial or semi-artificial receptacle or other container located outdoors, used or intended for use by adults or children, operated and maintained by any person, whether an owner or lessee, including spas and hot tubs used or intended to be used solely by the owner or friends invited to use it without payment of any fee.
- (5) "Swimming pool" means a body of water, at least 18 inches deep, in an artificial or semi-artificial receptacle or other container located outdoors, used or intended for use by adults or children, operated and maintained by any person, whether an owner or lessee, including swimming pools used or intended to be used solely by the owner or friends invited to use it without payment of any fee.

Section 2. Application

This Ordinance shall apply to all swimming pools, spas and hot tubs except those owned, controlled, or maintained by the owner of a multiunit rental complex or by a property owners association.

Section 3. Swimming Pool, Spa and Hot Tub Regulations

All swimming pools, spas and hot tubs shall be fenced as follows:

- (1) The fence shall extend around the entire pool with no openings or gaps exceeding four-inches (4") in any dimension.
- (2) Gates across driveways, parking areas for vehicles, or for other applications shall NOT be used nor included in the secured area of a pool.
- (3) The fence is away from any permanent object placed on the ground that a child could use to climb over the fence into the pool area, eg. deck, tree, barbecue.
- (4) The minimum height shall be four (4) feet.
- (5) It shall be constructed of wood, chain link or masonry construction, or equivalent material. If wire is to be used, such wire shall be of a size of at least nine (9) gauge. If the fence is constructed in the form of a mesh, one side of the mesh shall not be more than size (6) inches long.

- (6) The hinge post and latch posts must be steel and embedded in concrete.
- (7) The fence shall have its horizontal supporting members on the inside and where applicable, shall have its smooth side facing outside and be designed to keep and be capable of keeping children from climbing such fence. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.
- (8) All gates and doors installed in the perimeter fencing shall be self-closing and self-latching and shall be at least 4 feet wide.
- (9) Pedestrian gates shall swing away from the pool.
- (10) Any gates other than pedestrian access gates shall be equipped with lockable hardware or padlocks and shall remain locked at all times when not in use.
- (11) Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, (1) the release mechanism shall be located on the pool side of the barrier at least 3 inches below the top of the gate, and (2) the gate and barrier shall have no opening greater than 1/2 inch within 18 inches of the release mechanism.

NOTE OF HIGH IMPORTANCE

Electric/solar/battery operated gates are not equivalent to self-closing, self-latching pedestrian gates.

Example:

- Electric/solar/battery operated gates over driveways.
 - A separate barrier with a self-closing and self-latching gate is required between the pool and the driveway and garage door in the above mentioned example.
 - "Protect-a-child" fence systems are not permitted in lieu of a permanent barrier.
- (12) F. 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 (1) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (2) the ladder or steps shall be surrounded by a barrier which meets the requirements of Items A through E. When the ladder or steps are secured, locked or removed, any opening created shall be protected by a barrier complying with Items 1 through 11.

Section 4. Provisions Severable

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this

ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. Provisions Cumulative

This ordinance shall be cumulative of all provisions of ordinances of the City of Weston, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 6. Savings Clause

All rights and remedies of the City of Weston are expressly saved as to any and all violations of the provisions of ordinances of the City of Weston, Texas relating to swimming pool enclosures or any other ordinances affecting public health and safety which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 7. Penalty

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than One Thousand Dollars (\$1,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 8. Publication

The City Secretary of the City of Weston is directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance in accordance with the provisions of Section 52.011 of the Local Government Code.

Section 9. Publication in Book or Pamphlet Form

The City Secretary of the City of Weston is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

Section 10. Effective Date

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED this the 8th day of February 2005.

Patti Harrington
Patti Harrington, Mayor

ATTEST:

Susan M. Coffey
Susan M Coffey, City Secretary



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ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW (COUNTY OF COLLIN) (THE STATE OF TEXAS) I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Collin County, Texas on

APR 04 2005

Brenda Taylor



Filed for Record in:
Collin County, McKinney TX
Honorable Brenda Taylor
Collin County Clerk

On Apr 04 2005
At 12:53pm

Doc/Num : 2005- 0042291

Recording/Type:OR 25.00
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