

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2023-1648

An Ordinance Amending Chapter 10 of the Mequon Municipal Code, Related to Residential
Swimming Pools Standards

RECITALS

A. The Common Council previously adopted Section 10-26 of the Mequon Municipal Code, which establishes certain regulations for residential swimming pools, including the use of power safety covers.

B. Following the adoption of those regulations, City staff identified multiple corrections or clarifications that would improve the enforcement of the Code.

C. The Common Council desires to amend those regulations pursuant to staff recommendations.

D. The regulation of swimming pools furthers the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 10-26 of the Mequon Municipal Code is repealed and recreated to read as follows:

10-26 - Residential Swimming Pools.

No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building within the city except in accordance with the following regulations.

(a) Definitions.

(1) "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more

than 18 inches deep is contained and which is used primarily for the purpose of bathing or swimming. "Swimming pool" includes a spa, hot tub, and temporary pool unless otherwise specifically excluded within this section.

(2) "Temporary pool" means any swimming pool that has a surface area of less than 314.159 square feet (20-foot diameter) which is installed for any length of time less than four (4) months and which is installed after May 1 and removed by September 30 in the same year.

(3) "Power safety cover" means a barrier which can be placed over the water area of a pool that provides a high level of safety for children under the age of five by inhibiting their access to the water which is certified to meet the minimum qualification criteria for a Power Safety Cover as specified in American Society for Testing and Materials (ASTM) Specification 1346-91, provided that any operating switch be located within the line of sight of the operation of the cover and is operated by a secure key or keypad. An operating switch that is not operated by a key or keypad shall be installed at least 5 feet above the surface below the switch.

(4) "Decorative" as applied to fences means that a fence is made of PVC, wrought iron, or aluminum pickets, or is a painted or stained shadow-box or board-on-board type fence, or similar design as approved by the Department of Community Development. Decorative shall not include chain link, snow or other temporary fencing.

(b) Permit.

(1) Required. No person shall construct, install, enlarge or alter any private swimming pool, including changing any fence or safety device, unless a permit therefor has first been obtained from the Building Inspector. A temporary pool shall be exempt from this permit requirement.

(2) Application. The following information shall be required:

a. Survey or accurate drawing of the property, in duplicate, showing all existing structures, proposed swimming pool or spa location, fencing if required, and overhead or underground electrical wiring.

b. Type of pool installation, above ground or in-ground.

c. Pool height above highest point of grade if above ground installations.

- d. Type and height of fence, if proposed.
- e. Type and support of decking, if proposed.
- f. Type and location of safety features to be installed, if proposed.
- g. Overall size and locations of the above in regard to existing buildings and lot lines for property survey reference.
- h. Any change in finished grade near pool.
- i. County Health Department approval for properties using a private septic system, where applicable.
- j. Site inspection letter from a local wiring utility.
- k. Two copies of a brochure which shows the type, style, etc. of the swimming pool and safety features to be installed.

(c) Construction Requirements.

- (1) No swimming pool shall be located, erected, constructed or maintained within any front yard or closer to any side or rear lot line than allowed by Chapter 58 for permitted accessory structures, and the waterline of any swimming pool shall not be less than four feet from any lot line, wall, fence, structure or building, unless a more stringent requirement is provided for elsewhere in this code.
- (2) No connection shall be made to the sanitary sewer or septic system.
- (3) Gaseous chlorination systems shall not be used for disinfecting swimming pool waters.
- (4) Swimming pools shall be located from well and septic systems in accordance with the Wisconsin State Plumbing Code, Wis. Admin. Code § SPS 383.

(d) Fences or Other Safety Measures.

- (1) All non-temporary swimming pools not enclosed within a permanent building shall be completely enclosed by a decorative fence of

sufficient strength to prevent access to the swimming pool, not less than four feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. No fence shall be located, erected, constructed or maintained closer than four feet to a swimming pool. Gates or doors shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use. Latches shall be located at least three feet above the ground, accessible deck or stairs. Temporary non-decorative fencing may be approved by the Department of Community Development for a period not to exceed 30 days where necessitated by construction and or safety concerns.

(2) The wall of the house or building facing a swimming pool may be incorporated as a portion of the fence required under paragraph (1) above provided that the swimming pool is equipped with at least one of the following:

a. Removable mesh fencing that meets the standards of ASTM Specification F2286 in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

b. Exit alarms on all doors within a residence that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that “the door to the pool is open.”

c. A self-closing, self-latching device with a release mechanism placed no lower than 36 inches above the floor on all doors of a residence providing direct access to the swimming pool or spa.

(3) In lieu of a fence under paragraph (1) above, a swimming pool may utilize a power safety cover provided that:

a. The pool is located on a single-family residential parcel within a single-family residential zoning district;

b. The power safety cover is in working order;

c. The power safety cover is closed and secured at all times where the pool is not in use by a person of at least 15 years of age or under supervision of a person who is outdoors, within 10 feet of the pool, and is at least 15 years of age;

d. The water line of the pool is not closer than 30 feet from any lot line; and

e. The pool is also equipped with at least one of the following:

i. Removable mesh fencing that meets the standards of ASTM Specification F2286 in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

ii. Exit alarms on all doors within a residence that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that “the door to the pool is open.”

iii. A self-closing, self-latching device with a release mechanism placed no lower than 36 inches above the floor on all doors of a residence providing direct access to the swimming pool or spa.

(4) Above ground swimming pools with platforms and railings that are four feet or more in height above ground and temporary pools are not required to be enclosed as provided in paragraph (1) above; however, all ladders and stairways providing access to such swimming pools shall be removed from the swimming pool or shall be adequately fenced and fitted with gates or folded up and locked to prevent entry when the swimming pool is not in use.

(5) Spas and hot tubs are exempt from the fence requirement under paragraph (1) above provided that such spa or hot tub has a locking safety cover which is certified to meet ASTM Specification 1346-91 and which shall be in place and locked when the hot tub or spa is not in use.

(e) Electrical Requirements. All electrical installations shall require separate permits and shall be governed by the City or State Electrical Code.

(f) Pool Lights. If overhead flood or other artificial lights are used to illuminate the swimming pool at night, such lights shall be shielded to direct light only on the swimming pool.

(g) Swimming Pool Decks. All decks shall be constructed in accordance with

the Uniform Building Code. Decking shall be considered an integral part of the swimming pool and shall comply with the applicable setback dimensions per the local zoning code.

(h) Drainage. In no case shall any swimming pool be drained onto lands of property owners other than the owner of the swimming pool. Drainage shall be in accordance with city code.

(i) Use of Swimming Pool. No swimming pool shall be so operated as to create a nuisance, a hazard or an eyesore or otherwise to result in a substantial adverse effect on neighboring properties. Repeated violations of this code shall constitute a public nuisance, abatement of which may include removal of the pool in addition to all other remedies available by law.

(j) Applicability of codes and standards. Where this section adopts or references a specific code, standard, specification or the like, such adoption or reference shall include all amendments and revisions thereto, and the most recent version in effect at the time a pool (or any of its safety features) is constructed, installed, changed, remodeled, or enlarged shall apply.

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This Ordinance shall be in full force and effect upon passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: May 9, 2023

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on May 9, 2023.

Caroline Fochs, City Clerk

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