

ORDINANCE NUMBER 1430

AN ORDINANCE REGULATING THE INSTALLATION AND MAINTENANCE OF SWIMMING POOLS, PROVIDING FOR FENCING AND OTHER PROTECTIVE MEASURES; PROVIDING A PENALTY FOR VIOLATION AND AN EFFECTIVE DATE FOR THIS ORDINANCE.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Public Policy. It is determined and declared that the maintenance of private swimming pools without appropriate precautionary measures constitutes a hazard to the safety of the inhabitants of the City of Milwaukie, particularly children.

Section 2. Control.

a. Every person, firm, or corporation in possession of land within the City of Milwaukie, either as an owner, purchaser under contract, lessee, tenant, or licensee, in which there is situated an excavated or portable swimming pool containing or capable of containing water eighteen (18) inches or more in depth at a point, shall erect and maintain on the lot or premises upon which such pool is located an adequate physical barrier sufficient to make such pool inaccessible to unsupervised small children.

b. Such physical barrier shall completely surround such pool and shall extend not less than four (4) feet above the adjacent ground level; provided, however, that a dwelling house or accessory building may be used as part of such enclosure.

c. Such physical barrier shall be constructed in such a way as to prevent access under the lower edge by small children.

d. All access ways, gates or doors through such enclosure, except the door of any dwelling occupied by human beings and forming any part of the enclosure required above, shall be self-closing and equipped with a self-latching device designed to keep and capable of keeping such door or gate securely closed at all times when not in actual use. No such enclosing wall or fence shall be constructed nearer than five (5) feet to the outer walls of the pool.

Section 3. Compliance.

a. The primary method for enforcement of this ordinance shall be by discovery or the filing of a complaint with the City.

b. The provisions of this ordinance shall not apply to swimming pools which are owned, operated and maintained by a legally constituted public jurisdiction.

c. All new swimming pools erected after the adoption of this ordinance shall meet the conditions set forth herein.

d. Any person, firm, or corporation in possession of land within the City of Milwaukie, either as an owner, purchaser under contract, lessee, tenant, or licensee, in which there is situated an excavated or portable swimming pool, shall erect some sort of fencing within sixty (60) days of adoption of this ordinance and be in full compliance with the requirements contained herein by 1 May, 1980.

Section 4. Modification.

a. The City Public Works Director may allow slight or minor modifications for good cause shown in individual cases with respect to nature or location of fences, walls, gates, or latches, or the necessity therefore, provided the degree of protection is not reduced thereby.

b. The Public Works Director, upon application of a person, firm, or corporation, may grant an extension of time for compliance in individual cases upon showing of good cause. Such extension of time shall not exceed thirty (30) days.

Section 5. Trespass. If a person enters and remains unlawfully in or upon said premises, that person shall be charged with the offense of Trespass as contained in City Ordinance No. 1257.

Section 6. Penalties. Any person, firm, or corporation found in violation of the terms of this ordinance, and upon conviction, shall be punished by a fine of not more than \$100. Any person, firm, or corporation continuing, committing, or permitting any violation of this ordinance for more than one week shall be deemed guilty of a separate offense for each week of violation.

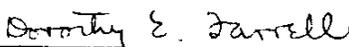
Section 7. Severability. If any section, subsection or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. The invalid part shall be severed from the ordinance and such holding shall not affect the validity of the remaining portions of this ordinance.

Read the first time this 6th day of August, 1979, and moved to second reading by unanimous vote of the City Council.

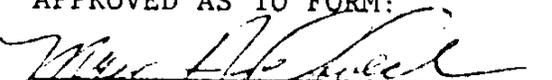
Read the second time and adopted by the City Council this 6th day of August, 1979.

  
ALLEN MANUEL, Mayor

ATTEST:

  
Dorothy E. Farrell, Recorder

APPROVED AS TO FORM:

  
Myer Avedovech, City Attorney