

ORDINANCE NO. 56-2005

AN ORDINANCE AMENDING CHAPTER 29.5, "SWIMMING POOLS AND SPAS", ARTICLE III, OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1. That Chapter 29.5, "Swimming Pools and Spas", Article III, Design and Construction Standards Residential Inground Pools, Sec. 15.3, of the Abilene Municipal Code be amended as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2. That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3. That any person, firm or corporation violating any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars (\$500). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 13th day of October, A.D., 2005.

After passage on first reading, a notice of the time and place said ordinance would be given a public hearing and consideration for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene. The same being more than 24 hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on its second and final hearing.

PASSED ON SECOND AND FINAL READING this 25th day of October, A.D, 2005.

ATTEST:



CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY

EXHIBIT A

Replace 29.5-21, 15.3 in its entirety with:

15.3 Swimming pools or spas which are an accessory use to a single-family residence shall be completely surrounded by a wall or fence, at least four (4) feet high with self-closing and positive latching four (4) feet high gates. When fences have horizontal members spaced less than 45 inches apart, the horizontal members shall be placed on the pool side of the fence. Any decorative design work on the side away from the swimming pool, which render the fence easily climbable, is prohibited. The opening spacing of members or framework shall be spaced such that the passage of a 4-inch-diameter sphere is not allowed. Gates may be of the same design requirements as the fence and shall be self-closing and positive latching.

Exception:

1. Natural barriers, in lieu of fencing, may be considered by the Mechanical, Plumbing, Electrical, and Swimming Pool Board of Appeals, on a case by case basis. The proponent has the burden of proof to clearly identify the character and sufficiency of the natural barrier.