

SWIMMING POOL ORDINANCE

Adopted August 15, 1967

SECTION 1. Title

This Ordinance shall be known and may be cited as “**AN ORDINANCE PROVIDING SAFEGUARDS FOR SWIMMING POOLS IN THE TOWN OF KIRKWOOD, NEW YORK.**”

SECTION 2. Definition

For the purpose of this Ordinance, a “swimming pool” shall be defined to mean any artificial pool or structure intended for wading, bathing or swimming purposes made of concrete, masonry, metal or other impervious material over 24 inches in depth and which is so constructed so that any portion of said artificial pool or structure is located below grade at any point, as measured from the land immediately adjacent to the outside edge of said artificial pool or structure. This Ordinance is not intended to apply to any artificial pools or structures which are so constructed as to be completely above grade as measured from the land immediately adjacent to the outside edge of said artificial pool or structure.

SECTION 3. Safeguards

No person or persons, association or corporation shall maintain a swimming pool as defined above within the confines of the Town of Kirkwood without first safeguarding such swimming pool with a permanent protective fence, said fence to be installed so as to encompass the entire perimeter of the swimming pool. Said fence shall be structurally sound, durable and must be maintained in such condition. Said fence shall be a minimum of 48 inches in height and shall be of wooden or metal construction. If said fence is constructed of wood, it must be so constructed that there are no open spaces exceeding 2 inches by 48 inches. If said fence is constructed of metal, it must be so constructed so as not to have a linkage of more than 2 inches in diameter. The entrance gate or gates shall have self latching devices and except for ingress and egress to and from swimming pool area, must be kept closed at all times. All fences required to be erected in accordance with this Section must be approved in writing by the Building Inspector of the Town of Kirkwood. The Building Inspector, in his discretion, may approve in writing fences existing on the effective date of this Ordinance which substantially comply with the provisions of this Section.

***Regulations regarding enclosures required for above ground pools may be found in Section 302.7.2 of the Property Maintenance Code of the State of New York.**

SECTION 4. Violation

Any person who shall violate the provisions of this Ordinance shall be guilty of an offense against this Ordinance and shall be liable for such violation.

SECTION 5. Penalty for Violation (Amended May 4, 2004 by LL No. 20-2004)

A violation of this ordinance is an offense, punishable by a fine not exceeding two hundred fifty dollars or imprisonment for not more than fifteen days, or both.

SECTION 6. Saving Clause

If any provisions, sentence, clause, section or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance, or time application thereof to other persons or circumstances, but shall be confined in its operation to the provisions, sentence, clause, section, paragraph or part of this Ordinance and the persons and circumstances directly involved in

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the controversy in which such judgment was rendered. It is hereby declared to be the intent of the Town Board of Kirkwood that this Ordinance would have been adopted had such unconstitutional or invalid provisions, sentence, clause, section, part, paragraph, or application not been included herein.

SECTION 7. Repealing Clause

All Ordinances, resolutions, actions or other proceedings by the Town Board of Kirkwood, heretofore adopted which are in conflict or inconsistent with any provision or provisions of this Ordinance are hereby repealed.

SECTION 8. Publication and Posting

The Town Clerk is herewith authorized, empowered and directed to publish and post the notices of the adoption of this Ordinance in the manner as provided by Law.