

1145.13 SWIMMING POOLS, PONDS AND WATER GARDENS.

- a) Scope. This Section shall apply to all swimming pools, spas, ponds and water gardens within the Municipality.
- b) Definitions. As used in this section:
 - (1) "Limited Access Ladder" means any ladder with provision for making entry inaccessible when the pool is not in use, such as swing-up or slide-up.
 - (2) "Pond" means any exterior artificial or non-natural excavation, grading or enclosure containing or normally capable of containing water at a depth at any point greater than two-feet.
 - (3) "Portable ladder" means any ladder, which by its portable nature, is intended to be physically removed with ease when the pool is not in use.
 - (4) "Private Swimming Pool" means any indoor or outdoor structure, chamber or tank containing a body of water for swimming, diving, or bathing located at a dwelling house of no more than three families and used exclusively by the residents and their nonpaying guests.
 - (5) "Public Swimming Pool" means any indoor or outdoor structure, chamber or tank containing a body of water for swimming, diving or bathing that is intended to be used collectively for swimming, diving or bathing, and is operated by any person whether as the owner, lessee, operator, licensee or concessionaire, regardless of whether or not a fee is charged for use, but does not mean any public bathing area or private swimming pool.
 - (6) "Public Bathing Area" means an impounding reservoir, basin, lake, pond, creek, river or other similar natural body of water.
 - (7) "Water Garden" means a pool of water with or without a liner, with a surface area of 100 square feet or less and with a depth of three-feet or less used as a landscape feature with aquatic plants and with or without ornamental fish.

(c) Permit Required. Before work is commenced on the construction of any pond or outdoor public or private swimming pool or any addition, remodeling, or other improvement thereto, a permit shall be obtained in accordance with Section 1147.03 of this Planning and Zoning Code.

(d) Exemptions.

- (1) All inflatable pools, kiddie pools, or those otherwise temporary in nature and which are seasonally erected after May 1 of each year and dismantled before September 15 of each year and not exceeding eighteen (18) inches in depth and/or a surface area of 115 square feet or less are exempt from the provisions of this Section.
- (2) All hot tubs, home spas and whirlpool tubs with a surface area of 150 square feet or less and with a safety cover meeting the requirements of ASTM Standard F 1346, Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs are exempt from the provisions of this Section.
- (3) All water gardens are exempt from the provisions of this Section.

(e) Ponds.

- (1) Ponds are permitted in any Zoning District as an accessory use with the following conditions:
 - A. The pond is incidental to a primary use as set forth in the Planning and Zoning Code.
 - B. A site plan including location, setbacks, depth and side slope, as well as any fencing or marking shall be submitted with the application for such permit.

- C. Ponds with surface areas in excess of 800 square feet shall have front, side and rear yard setbacks of not less than ten percent (10%) of the width of the lot where the pond is located, or the yard setbacks specified elsewhere in this Planning and Zoning Code, whichever are greater. No pond shall be nearer than five feet to any lot line.
- D. The edge of the normal water surface of a pond shall not be closer than fifty-feet to any septic system, well or leach field.

(f) Barrier Requirements.

- (1) Every outdoor swimming pool shall be completely surrounded by a barrier which shall comply with the following:
 - A. The top of the barrier shall be not less than six (6) feet above grade for public swimming pools and not less than four (4) feet above grade for private swimming pools, measured on the side of the barrier that faces away from the pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on the top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches.
 - B. Openings in the barrier shall not allow passage of a 4-inch diameter sphere.
 - C. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
 - D. Where the barrier is composed of horizontal and vertical members, it shall be constructed so that the horizontal members are on the pool side of the barrier. Spacing between vertical members shall not exceed 1-3/4 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1-3/4 inches in width.
 - E. Maximum mesh size for chain link fences shall be a 2-1/4 inch square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1-3/4 inches.
 - F. Access gates shall comply with the requirements of Section 1145.13(f) (1) A. through E., and shall be equipped to accommodate a locking device. Such access gates shall be kept locked when the pool is not in actual use or is left unattended.
 - G. A building or existing wall may be used as part of such enclosure if the intent of providing a minimum six-foot or four foot high pool access barrier is met.
 - H. No person in possession of land within the Municipality either as owner, purchaser, lessee, tenant, or licensee on which is situated a swimming pool shall fail to provide or maintain such a barrier as herein provided.
- (2) 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 the following conditions must also be met:
 - A. When not in use, a pool with a portable ladder shall be rendered inaccessible by removing such ladder from the pool.
 - B. When not in use, a pool with a limited access ladder shall be rendered inaccessible by placing such ladder in a position that prohibits entry to the pool.

C. As an alternative to A. and B. above, the ladder or steps shall be surrounded by a barrier which meets the requirements of 1145.13(f) (1) A. through H.

- (3) Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.
- (4) All hot tubs, home spas and whirlpool tubs with a safety cover meeting the requirements of ASTM Standard F 1346, Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs are exempt from the barrier requirements.

(g) Lighting; Noise.

- (1) Lights used to illuminate any pool shall be so arranged and shaded as to reflect lighting away from adjoining premises and public streets.
- (2) It shall be unlawful for any person to make, continue, or cause to be made or continued at any pool any loud, unnecessary, or unusual noise, or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of common sensibilities within the Municipality.

(h) Conflict of Law.

In the event of conflict between any provisions of this Section, including any rules and regulations adopted pursuant to its provisions and any other provisions of the Codified Ordinances, including any rules and regulations adopted pursuant to such Codified Ordinances, the more restrictive provision or provisions shall prevail and control.