

Denmark Township Memorandum

To: Denmark Township Planning Commission

Copies: Troy Gilchrist, Town Attorney
Cara Geheren, PE, Town Engineer, FOCUS Engineering, Inc.

From: Ryan Krzos, AICP, Town Planner

Date: October 14, 2020
Planning Commission Regular Meeting for October 19, 2020

WSB Project No. 15210-000 Phase 11

Requests: **Consideration of a proposed amendment to the Denmark Township Development Code to reduce the required height of pool safety fences and to allow a pool safety cover instead of a safety fence**

REQUESTED ACTION

The Town Board directed staff to prepare an ordinance amendment to the Township Development code to reduce the required height of pool safety fences and to allow a pool safety cover instead of a safety fence.

Chapter Two of the Zoning Regulations Part 3, Performance Standards Section 2.40 provides the standards for swimming pools in the Township. The existing ordinance currently requires a non-climbable safety fence or structure five feet in height to surround a pool for safety purposes in all zoning districts. The proposed ordinance amendment would modify the requirement to allow a fence at least four feet in height. Additionally, the proposed ordinance amendment would allow the use of a pool cover in lieu of a safety fence. Lastly, the Ordinance amendment would codify the owner's responsibility to ensure that the fence gates are closed, or the cover is on when not in use.

ORDINANCE AMENDMENT REVIEW

Ordinance Authority

An amendment to the Zoning Code may be initiated by the Township Board, the Planning Commission, or by petition of property owner(s). Amendments not initiated by the Planning Commission are first referred to the Planning Commission for review and recommendation. The Planning Commission is to also hold a public hearing on the matter. Following review and recommendation of the Planning Commission the Town Board may take action on the amendment.

Building Official Comments

Bob LaBrosse, Building Official for the City of Cottage Grove, serving as the Township Building Inspector noted that in his opinion pool covers are not an acceptable or compliant alternative for the pool fencing requirements.

Peer Community Ordinance Review

Staff examined the Ordinance requirements of several communities around the Township. For the most part, the surveyed communities require a fence at least four feet in height to enclose swimming pools in their respective jurisdictions. The City of Inver Grove Height, and Marshan and Nininger Townships allow covers in lieu of safety fencing.

City of Afton

12. Fencing at least five feet in height shall completely enclose all pools.

Marshan and Nininger Township

Ordinances not available online. Staff contacted the contracted building official serving both communities, who indicated that the township allows a four-foot security fence, and also allows pool covers meeting ASTM standards in lieu of fencing.

Vermillion Township

3. The swimming pool, or the entire property upon which it is located, shall be walled or fenced in such a manner as to prevent uncontrolled access by children from the street and from adjacent properties. No such fence shall be less than four (4) feet in height and it shall be maintained in good condition with a gate and lock.

City of Cottage Grove

C. Fences and Gates:

1. The pool shall be enclosed with fencing, at least four feet (4') high and not exceeding six feet (6') high, to prevent uncontrolled entrance of all persons. Such fence shall have self-closing and self-latching gates with provisions for locking and shall be completely installed prior to the filling of the pool.

City of Woodbury

Sec. 22-21. - Fences.

(a) All private swimming pools shall be completely surrounded by a fence or wall not less than four feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four inches in either vertical or horizontal direction, except for doors and gates. The fence shall be of a type not readily climbed by children. A dwelling or accessory building may be used as part of such enclosure. An above-ground pool with a wall greater than four feet in height does not require a fence if the wall cannot be readily climbed by children.

Sec. 22-24. - Pool covers.

Pool covers, whether they can be locked or not, do not alone meet public safety requirements if the cover is of the type that can collect and hold natural water.

City of Hastings

(3) Enclosure fence. All pools to be constructed or already constructed shall be completely surrounded by a fence or wall of not less than 4 feet, nor more than 6 feet in height. The fence shall be of a type not readily climbed by children. A dwelling house or accessory building may constitute part of the enclosure. An above ground pool with a side wall height of 4 feet or greater

does not require a fence. All gates or openings shall be self-closing and have a self-latching device for security. Pool gates shall have locking devices for off-season or non use.

City of Inver Grove Heights

C. Fencing:

1. A minimum four foot (4') nonclimbable fence, restricting access, shall be erected around outdoor swimming pools, hot tubs, spas, and inflatable pools or around the tract of land where said pool, hot tub, spa, or inflatable pool is located. The exceptions to this requirement are:

a. Hot tubs and spas equipped with latching covers conforming to ASTM F 1346-91, "Standard Performance Specifications For Safety Covers And Labeling Requirements For All Covers For Swimming Pools, Hot Tubs And Spas2".

b. Inflatable pools with a surface area of fourteen (14) or less feet in diameter, and less than thirty inches (30") in depth from the deepest point to the spill level, and erected between Memorial Day and Labor Day.

c. Pool covers conforming to ASTM F 1346-91, "Standard Performance Specifications For Safety Covers And Labeling Requirements For All Covers For Swimming Pools, Spas, And Hot Tubs".

2. The building official shall approve the plans and specifications for said fence prior to construction. If said fence is equipped with doors or gates, then the doors or gates shall be self-closing, latching and childproof.

3. Where a suitable railing or other approved barrier restricting access to the pool is constructed, the above requirement for a fence may be waived by the building official, provided the building official determines compliance with approved ordinances and standards.

4. In instances where the hot tub or spa contains a latching cover or the pool contains a cover or the fence has a door or gate, then the property owner must keep the cover closed and the door and gate closed unless a resident of the property is present outdoors and within twenty five feet (25') of the hot tub, spa or pool.

PLANNER RECOMMENDATION

Based on the analysis above Staff recommends approval of Ordinance amendments allowing fencing or structures at least four feet in height. However, in light of the comments from the Township's Building Inspector staff is not recommend the cover in lieu of fencing be adopted.

FINDINGS OF FACT

Town Staff offers the following findings of fact for the Planning Commission's and Town Board's consideration:

- The proposed ordinance amendment is consistent with the Town's Comprehensive Plan and the intent of the Development Code.
- Reducing the required pool fence height in the Township will not negatively alter the rural character of the Township.
- Reducing the required pool fence height in the Township under certain conditions will not pose negative impacts on property values of the health, safety, or welfare of the public.