

Date June 13, 2011

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing paragraph (a) of Section 26-300, Section 26-310, and Sections 26-380 through 26-384, inclusive, thereof and enacting a new paragraph (a) of Section 26-300, Section 26-310 and by adding and enacting a new Section 26-333, regarding the design and enclosure of swimming pools, spas and hot tubs",

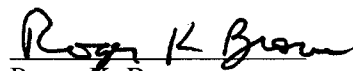
(Council Communication No. 11-390)

presented.

MOVED by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)


Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing paragraph (a) of Section 26-300, Section 26-310, and Sections 26-380 through 26-384, inclusive, thereof and enacting a new paragraph (a) of Section 26-300, Section 26-310 and by adding and enacting a new Section 26-333, regarding the design and enclosure of swimming pools, spas and hot tubs.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as amended by Ordinance No. 14,981 passed December 20, 2010, be and is hereby amended by repealing paragraph (a) of Section 26-300, Section 26-310, and Sections 26-380 through 26-384, inclusive, thereof and enacting a new paragraph (a) of Section 26-300 and Section 26-310 and by adding and enacting a new Section 26-333, regarding the design and enclosure of swimming pools, spas and hot tubs as follows:

Sec. 26-300. Adoption of international codes.

(a) This article shall consist of the International Building Code (“IBC”), the International Existing Building Code (“IEBC”), the International Energy Conservation Code (“IECC”) and Parts I, II, III, V, VI and appendix chapters G, H & J of the International Residential Code (“IRC”) all 2009 editions published by the International Code Council, which volumes are incorporated by this reference in their entirety, except as otherwise indicated in this article.

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Sec. 26-310. Deletions.

The following are deleted from the building code and are of no force or effect in this article:

- (1) Sections 103, 113, 116, ~~3109~~; and,
- (2) Subsections 101.4 104.8, 105.2, 105.5, 109.3, and 110.3.5 of the International Building Code.
- (3) Sections R103, R112; and,
- (4) Subsections R104.8, R105.2, R105.5, R108.3, G2420.5.3, exception 4 in G2422.1.2.3; and,
- (5) Table R403.1 of the International Residential Code.
- (6) Section 103, 112, 115; and,
- (7) Subsections 104.8, 105.2, 105.5, 108.3, 109.3.5, of the International

- Existing Building Code.
(8) Section 109 of the International Energy Conservation Code.

Sec. 26-333. Swimming pools, spas and hot tubs.

The exception under IBC section 3109.4 is hereby amended by deleting such exception and replacing it with the following:

Exception: Spas or hot tubs with a safety cover which complies with ASTM F 1346 shall be exempt from the provisions of these sections.

Secs. 26-3343--26-349. Reserved.

Sec. 26-380. Definitions.

~~—The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~—*Swimming pool*, for purposes of enclosure requirements of this Code, means any body of water which has a depth of 18 inches or more in an artificial or semi-artificial receptacle, but excluding the following:~~

- ~~1. — Landscaping pools not intended for wading or swimming.~~
- ~~2. — Storm water retention and/or detention basins on property owned by the city, county, state or federal government.~~
- ~~2. — Storm water retention and/or detention basins constructed and maintained in substantial compliance with an approved site plan or preliminary plat, or other city approved design.~~

~~—*Wading pool* means a swimming pool that is a permanent artificial basin of water no more than 18 inches deep at any point, which is primarily intended for use by young children under the age of 12 for general recreation or training.~~

Sec. 26-381. Design requirements.

- ~~(a) — *Material*. The material used for lining swimming pools shall be one which is light in color, which is impervious, and which will provide a tight tank with smooth and easily cleaned surfaces. Sand or dirt bottoms are prohibited.~~
- ~~(b) — *Plumbing*. All cross connections between the city water supply or the sewer system and the plumbing of a swimming pool shall be constructed in accordance with the city plumbing code.~~

Sec. 26-382. Enclosure of facilities.

- ~~(a) — *In-ground facilities*. In-ground swimming and water recreational facilities shall be enclosed as follows:
 - ~~(1) — Except for fill and drain wading pools, swimming pools, spas and other related facilities shall be protected by a fence, wall, building, enclosure or solid wall made of durable material not less than five feet high having a maximum vertical clearance to grade of two inches.~~
 - ~~(2) — Vertical board fences shall have a maximum edge to edge spacing of three-fourths of an inch between the boards. Horizontal nailing boards on rails shall be 45 inches apart. When boards are placed in other than a~~~~

- vertical position, there shall be no space between them.
- (3) ~~Chainlink fences shall have a maximum opening between the links of 2 3/8 inches as measured diagonally. Support posts shall be firmly implanted in the ground and shall be spaced not more than ten feet apart.~~
 - (4) ~~Wrought iron style fencing shall have a maximum spacing of four inches between the vertical rails and a minimum spacing of 45 inches between the horizontal rails. No ornamental devices shall be placed between the vertical rails that could act as a foothold.~~
 - (5) ~~Access gates shall comply with the requirements of subsections (a)(1), (2), (3), and (4) of this section and shall be self-closing and shall have a self-latching device located on the facility side of the gate. Secondary access gates need not be self-closing and self-latching if they are kept locked.~~
 - (6) ~~All horizontal supports shall be on the pool side of the barriers. Barriers shall be constructed so as not to provide external footholds.~~
 - (7) ~~No part of a facility constructed after the publication of Ordinance No. 9968 on June 30, 1981, shall be constructed within four feet of a property line, other wall, other fence, or other structure.~~
 - (8) ~~All required elements of a swimming pool enclosure shall be completed and the enclosure approved by the city at the point in time that a swimming pool receptacle shall be capable of holding 18 inches of water or more. If the owner or occupant of the property fails to adequately complete the pool enclosure at such time, the pool receptacle shall be dismantled or rendered incapable of holding water if an aboveground pool or completely drained and covered if an in-ground pool. The pool receptacle shall not be made capable of holding water and shall remain covered if so ordered until such time as the enclosure is approved by the city.~~
 - (9) ~~All facilities with indoor pools and spas which have a secured entry to the facility shall be considered to have met the requirements of subsections (a)(1) through (8) of this section.~~
 - (10) ~~In the absence of an imminent hazard, the environmental health officer may grant an extension of time for compliance with this subsection.~~
 - (11) ~~All facility enclosures which were in use and which were legally acceptable prior to the effective date of the ordinance from which this section derives shall continue to be deemed as acceptable; provided, however, that no alterations or changes can be made which would diminish the level of protection afforded by the fence or barrier.~~
- (b) ~~*Aboveground facilities.* In lieu of subsection (a) of this section, facilities manufactured and approved for installation above ground shall be installed in accordance with the following criteria:~~
- (1) ~~When not in conflict with this subsection, aboveground facilities shall be installed in accordance with the manufacturer's recommendations.~~
 - (2) ~~Enclosure of an aboveground facility shall meet the same requirements set forth in subsection (a) of this section for in-ground facilities. For the purpose of satisfying these requirements, a fence or wall at least five feet above any adjoining grade, located within four feet of the facility~~

enclosure, may be used in combination with the vertical water enclosing wall of the facility to provide the required degree of security.

- (3) ~~Steps, ladders, ramps, or any other device affording access to the facility shall be constructed in a manner that will afford the same degree of security against unauthorized access as that prescribed for the facility enclosure.~~
- (4) ~~No part of a facility or deck connected thereto constructed after the publication of Ordinance No. 9968 on June 30, 1981, shall be constructed within four feet of a property line.~~
- (e) ~~Covers. The enclosure requirements of this section may be satisfied for outdoor facilities with a water surface area of not greater than 60 square feet by equipping the facility with a rigid cover capable of supporting at least 200 pounds and which, when not in actual use, shall be securely locked so as to render the facility inaccessible.~~

~~Sec. 26-383. Applicability; certificate of occupancy.~~

- (a) ~~The requirement to enclose a facility and provide for a gate or door as provided in section 26-282 shall be applicable to public facilities regardless of when constructed.~~
- (b) ~~No person shall maintain or use a public facility unless a certificate of occupancy has been issued as provided for in this chapter.~~

~~Sec. 26-384. Enforcement.~~

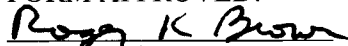
~~In addition to any other remedies available under this chapter, a violation of any of the sections of this division may be grounds for temporary closing of the operation of the facility. The facility shall be reopened only with the approval of the building official upon a showing of compliance with the section of this division that has been violated.~~

~~(C00, § 26-384; O.14,981)~~

~~Secs. 26-3805--26-399. Reserved.~~

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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