

Date 2/2/99 Item # 12  
( ) Approved ( ) Denied  
( ) Continued To \_\_\_\_\_

TO: JAMES L. APP, CITY MANAGER

FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR *RLA*

SUBJECT: AMENDMENTS TO MUNICIPAL CODE SECTION 17.12 - SECURITY OF BODIES OF WATER TO BE USED FOR THE PURPOSE OF HUMAN IMMERSION

DATE: FEBRUARY 2, 1999

Needs: To amend the Chapter 17.12 of the Municipal Code, Security of bodies of Water for the purpose of Human Immersion.

Facts:

1. The City adopted Section 17.12 in 1991.
2. The Municipal Chapter directly reflects the code adopted by the State of California. It was included in the Municipal Code to establish fencing requirements for above ground pools. Above ground pools are exempted from the need for a building permit by the Uniform Building Code. As a result, they were often installed without security fencing.
3. The amendment of this section would change the wire gauge and opening dimension of chain link fencing consistent with changes made to the State Code. The rest of the code provisions remain unchanged from their adoption in 1991.

Analysis and Conclusion: The clarifications are being incorporated in an attempt to maintain consistency with State regulations. They will not lessen any of the standards already adopted by Council.

Policy Reference: State Health and Safety Code. State of California Building Standards Commission.

Fiscal Impact: The amendment will not result in any impacts to the General Fund.

Options: Subject to consideration of public comments, that the City Council:

- a. ~~Approve the attached Ordinance,~~ and introduce for First Reading an Ordinance that would amend Municipal Code Chapter 17.12 with regards to swimming pool enclosures; or
- b. Amend, modify, or reject Option "a".

IMC CODE  
DATE: J, 1999  
FILE PLAN/GEN CAT: CC staff reports  
SUBJECT: Amend 97 codes Staff Report  
LOCATION: H:\dm\code97\amend chap. 17.12,1997 e  
RETENTION: 1 Years  
OTHER:

Attachment:

Draft Ordinance amending Chapter 17.12 of the Municipal Code.

h:\dm\bldg\code97\amend chap 17.12

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Ordinance No. \_\_\_\_, N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES,  
AMENDING CHAPTER 17.12 OF THE MUNICIPAL CODE;  
SECURITY OF BODIES OF WATER TO BE USED FOR THE  
PURPOSE OF HUMAN IMMERSION

WHEREAS, the City Council for the City of Paso Robles adopted the Chapter 17.12 of the City of Paso Robles Municipal Code, which was appropriate for the time; and

WHEREAS, Municipal Code Chapter 17.12 reflects the language contained in State Health and Safety Code Section 17928, relating to swimming pool barriers; and

WHEREAS, the State of California has amended a portion of the language contained in Health and Safety Code Section 17928, thereby necessitating the need for the City to amend Municipal Code Chapter 17.12 to remain consistent with State requirements.

NOW THEREFORE, the City Council of the City of El Paso de Robles does ordain as follows:

Section 1. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

Section 2. Effective Date. This ordinance shall go into effect and be in full force and effect at 12:01 a.m. in the 31st day after its passage.

Section 3. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions or prior ordinance, motions, resolutions, rules, and regulations are hereby repealed.

Section 5. Protective enclosures for Swimming Pools, etc.

(a) Every person who owns or is in possession of any lot or premises on which there is situated a swimming pool, fish pond, wading pool or any other outside body of water created by artificial means designated or used for swimming or other immersion purposes by men, women or children, any portion of which body of water is 1 1/2 feet or more in depth and in which the surface area of the water does not exceed 10,000 square feet, shall maintain a fence, wall, or other structure on the said lot or premises completely surrounding such body of water to make same inaccessible to children. Such fence, wall or other structure comply with Article 2, commencing with Section 17928 of the State Health and Safety Code, relating to swimming pools as follows:

- i. The top of the barrier shall be at least five feet above grade measured on the side of the barrier that faces away from the swimming pool.
- ii. Any openings in the barrier shall not allow passage of a 4 inch diameter sphere.
- iii. Solid barriers which do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions excepting tooled masonry joints.
- iv. If the barrier is composed of horizontal and vertical members and the distance between the tops of vertical members is less than 48 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed  $1\frac{3}{4}$  inches in width. If there are decorative cutouts shall not exceed  $1\frac{3}{4}$  inches in width.
- v. If the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 48 inches or more, spacing between vertical members shall not exceed four inches. If there are decorative cutouts within vertical members, spacing or openings within the cutouts shall not exceed  $1\frac{3}{4}$  inches in width.
- vi. The maximum mesh size for chain link or wire fences shall be two inches square., The wire shall not be less than 12 gauge.
- vii. If the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than  $1\frac{3}{4}$  inches.
- viii. (1) Each access gate shall comply with the requirements of subdivisions (a) to (g), inclusive, and shall be equipped to accommodate a locking device.  
  
(2) Pedestrian-access gates shall open outward away from the pool and shall be self-closing and self-latching.  
  
(3) Gates other than pedestrian access gates shall have a self-latching device. If the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the pool side of the gate and barrier have no opening greater than  $\frac{1}{2}$  inch maximum dimension within 18 inches of the release mechanism.

The foregoing provisions shall apply to all permanent and to all portable or temporary structures including those designed or used for swimming or other immersion purposes by men, women, or children irrespective of the nature of the materials used in the construction and or the design thereof and irrespective of the length of time of use of such portable or temporary structure.

- (b) A pool located on a lot with a single family dwelling or duplex may be protected by a fence around the pool or a fence around the entire lot; the walls of any such building may be used for a partial or complete enclosure of the pool. All other pools shall be protected by a fence around the pool itself.
- (c) In lieu of a permanent fence being required prior to starting of construction, a temporary enclosure may be installed at time of excavation. Height and gate requirements for temporary enclosures shall be the same as those for permanent fences. The temporary enclosure is to be removed and the permanent enclosure installed in conjunction with installation of the finish decking around the pool or prior to final inspection.

**17.12.020 Doors or Gates**

- a. All doors or gates shall be of such size as to completely fill any opening in the fence, wall or other structure large enough to admit a child and shall be of such size and design so as not to admit any child when it is in a closed position. Such door or gate shall be secured with a locking device or equipped with self-closing and self-latching devices capable of keeping such gate or door securely closed. Such closing or latching devices shall be located not less than 4 feet above grade or otherwise be inaccessible from the outside to small children. In lieu of self-closing and self-latching devices at pools where a direct fee is charged and or where continuous lifeguard service is provided, doors and gates may be equipped with locks which shall be kept locked at all times when said pool, pond, or other body of water is not in actual use. Lifeguard service shall be as defined in section 24100.1 of the California Health and Safety Code.

**17.12.030 Telephone Jack required next to pool.**

Every outdoor swimming pool shall be equipped with a telephone jack adjacent to the pool area. "Telephone Jack" means a standard modular telephone connector suitable for connecting a telephone.

**17.12.040 Filling Swimming Pool Illegal Without Fence Surrounding Pool**

The requirements contained within this ordinance shall be applicable to any pool building or installed after adoption of this ordinance. Consistent with Section 17928 of the State Health and Safety Code any pool transferred to a new owner on or after July 1, 1992, shall be entirely enclosed with a barrier which restricts access to the swimming pool from public or adjacent private property.

Every person who fills with water, causes the filling with water any swimming pool required to be fenced by this ordinance before the required fence is erected is guilty of a misdemeanor.

**17.04.050 Penalty for Violation**

Any person who violates any of the provisions of this chapter, or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken or who fails to comply with such an order as affirmed or modified by the jurisdiction, within the time affixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor. (Ord. 628 N.S. (part), 1992: Ord. 581 N.S. (part), 1989: Ord. 515 N.S. 1986)

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

Introduce at a regular meeting of the City Council held on February 2, 1999, and passed and adopted by the City Council of El Paso de Robles in the 16th day of February, 1999, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

DUANE PICANCO, MAYOR  
City of El Paso de Robles

ATTEST:

MADELYN PAASCH, CITY CLERK