

AN ORDINANCE REPEALING AND REPLACING ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 2, ACCESSORY STRUCTURES, SECTION 5.2.15., SWIMMING POOLS, SPAS, AND HOT TUBS, OF THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE; PROVIDING REGULATIONS FOR SWIMMING POOLS, SPAS, AND HOT TUBS, INCLUDING, BUT NOT LIMITED TO, LOCATION, SCREENING, HANDRAILS AND GRABRAILS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Development Code, Article 5, Chapter 2, Section 5.2.15., is hereby repealed and replaced in its entirety, as follows:

Section 5.2.15. – Swimming Pools, spas, and hot tubs

A. Location of swimming pools, spas, and hot tubs.

1. Except in the RE zoning district, swimming pools, spas, and hot tubs are prohibited in the front yard and front setback of any single-family detached, attached and semi-detached, or duplex dwelling.

In the RE zoning district, swimming pools, spas, and hot tubs are allowed in the front yard of any parcel that is greater than 3 acres in size.

2. Swimming pools, spas, and hot tubs in the side yard of any single-family detached, attached and semi-detached, or duplex dwelling shall comply with the following regulations:

- a. Except for swimming pools, spas, and hot tubs in the side yard of a waterfront parcel, the swimming pool, spa, or hot tub in the side yard shall be screened from the view of all adjacent streets by a six-foot tall opaque fence or wall that meets all applicable standards in Section 5.2.7.

- b. Swimming pools, spas, and hot tubs in the side yard shall maintain a rear and side setback of ten feet.

- c. Swimming pools, spas, and hot tubs in the side yard shall maintain the same front setback or the same actual (i.e. as built) setback distance as the principal structure, whichever is the greater distance.

- d. The setback shall be measured from the exterior of the screen or fence for an enclosed swimming pool, spa or hot tub, or the waterline of an unenclosed swimming pool, spa, or hot tub to the closest point on the property line.

3. Swimming pools, spas, hot tubs, pool enclosures, and screen enclosures are prohibited in public utility or drainage easements.

4. All swimming pools, spas, hot tubs, and enclosures constructed or erected on any parcel, other than accessory to a single-family detached, attached and semi-detached, or duplex residence shall meet the minimum setback requirements specified for buildings or structures in the zoning district in which the construction occurs.

B. Swimming pool, spa, and hot tub screening.

1. All residential swimming pools, spas, or hot tubs shall be enclosed by either a fence or a screened enclosure. When using a fence only, the swimming pool, spa, and hot tub area or the entire rear yard shall be enclosed with a minimum four-foot high fence. When fencing a waterfront yard, the fence

shall extend to and no farther than the water side of the seawall cap, otherwise the fence shall extend across the back yard to the rear of the swimming pool. This fencing or screened enclosure must be completed before the pool is filled with water over 24 inches in height and before a final inspection.

2. In the event that the swimming pool, spa, or hot tub is secured solely by a required screened enclosure or solely by a permanent fence and the screened enclosure or permanent fence is damaged by a fire, accident, or severe weather event such as a hurricane, to the extent that the screened enclosure or permanent fence is no longer securing the swimming pool, spa, or hot tub, then a temporary mesh safety barrier that is a minimum height of four feet above grade shall be installed around the entire swimming pool, spa, or hot tub.

a. The temporary mesh safety barrier shall be installed as soon as practicable but in no event more than ten days after such fire, accident, or severe weather event.

b. The temporary mesh barrier may remain in place for a period not to exceed 90 days after the fire, accident, or severe weather event. The Director of the Department of Community Development may extend the time period stated herein upon good cause shown, such as satisfactory evidence that the property owner has contracted with a licensed contractor to replace the screened enclosure or permanent fence that was damaged by the fire, accident, or severe weather event.

C. Non-residential swimming pool handrails and grabrails.

Handrails shall be provided for all stairs. Grabrails shall be mounted in the pool deck at each side of recessed steps. Handrails and grabrails shall be anchored or mounted pursuant to the Florida Building Code. This sub-section C. shall apply to non-residential swimming pools only.

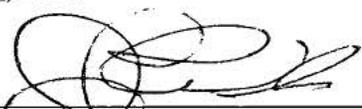
D. Portable Swimming Pools, spas, and hot tubs.

Portable swimming pools, spas, and hot tubs are prohibited in the front or the side of any residential and non-residential lot. Portable swimming pools, spas, and hot tubs capable of holding 24 inches in depth or more of water shall be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable swimming pools, spas, and hot tubs shall be enclosed by either a fence or a screened enclosure, which must comply with the requirements for swimming pool, spa, and hot tub screening in Section 5.2.15.B. Drainage of swimming pools, spas, or hot tubs so as to permit the water to run onto property of other people is prohibited. Wading or splash pools not capable of holding 12 inches or more of water are exempt from the provisions of this subsection.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 14th DAY OF September, 2020.



JOE COVELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO aye
GUNTER aye
CARIOSCIA aye
STOUT aye

NELSON aye
WELSH aye
WILLIAMS no
COSDEN aye

ATTESTED TO AND FILED IN MY OFFICE THIS 18th DAY OF September, 2020.

Kimberly Bruns
KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
ord\Swimming Pools
11/17/20