



# MEMO

**MEMO DATE:** February 17 , 2021  
**TO:** Ordinance Review Committee  
**FROM:** Heidi Murphy  
**RE:** Discuss Chapter 325-88(J) Pool fences

**Some surrounding communities have modified their fence ordinances so that a fence is not required around an in ground swimming pool when there is a safety or automatic cover installed on the pool . The committee should discuss if we would like to recommend pursuing this change as a resident has requested review of this ordinance.**

## Cottage Grove Current Ordinance

Pool fences.

**(1)** In-ground pools. All outdoor, in-ground swimming pools shall have a fence or other solid structure not less than five feet in height completely enclosing the pool with no opening therein (other than doors or gates) larger than four inches in a horizontal dimension. Fences with horizontal openings larger than four inches will be permitted if the vertical openings in the fence are not greater than one inch and the fence is considered by the Building Inspector to be nonclimbable. All gates or doors opening through the enclosure shall be kept securely closed and locked at all times when the pool is not in actual use. Gates shall be equipped with self-closing hinges and a latch that is intended to discourage unauthorized entry by small children.

**(2)** Aboveground pools.

**(a)** An approved barrier shall consist of a solid wall of durable material of which the pool itself is constructed and shall extend directly above the vertical water-enclosing wall of the pool. Such walls shall extend not less than three feet above the level of the ground immediately adjacent to the pool. Such solid pool wall barrier shall not be located within six feet of any other wall or fence or other structure which can be readily climbed by children. Every entrance to a pool, such as a ladder, must be secured or adequately safeguarded to prevent unauthorized entry into the pool.

**(b)** The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of 48 inches high on the top.



### Monona Example - protective cover exempt from fence requirement

Fence requirement.

**(1)** Pools within the scope of this section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

**(2)** The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing which complies with the International Building Code requirements as adopted by the state.

**(3)** All swimming pools existing as of the effective date of this chapter not satisfactorily fenced shall comply with the fencing requirements of this section or when water is placed in the pool.

### Sun Prairie Example - does not have exemption

Private Outdoor Swimming Pool. No permit shall be issued for an outdoor pool unless the following requirements are met:

1. An enclosure at least forty-eight (48) inches high and a minimum of three feet from the pool of such construction as will make access difficult shall completely enclose the pool. Access shall be through self-closing and latching gates with a locking device and shall be kept locked when pool is not in use;

2. The enclosure may be omitted where above ground pool are installed and have a raised deck around the entire pool perimeter with an attached railing on the top outer edge of the raised deck or where the sidewalls of an above ground pool are extended by an enclosure (fence) to a minimum of six feet above grade. Access shall be through self-closing and latching gates with a locking device and shall be kept locked when pool is not in use. Where pool ladders are provided they shall be a type that can be removed when pool is not in use.

### McFarland Example - protective cover exempt from fence requirement

**(a)** Pools within the scope of this Section that are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable



of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.

### Building Inspector Information from General Engineering

The McFarland ordinance requires a support of 250 pounds. During inspection process, the inspector asks for manufacturer instructions showing that it meets this requirement. It was noted that while the cover provides safety when it is in place, it offers no safety factor at all if not in place. Changing the ordinance would require that the cover is in place at all times when the pool is not in use, which would rely solely on a judgement call as to when the pool is in use. As an example, if an owner goes inside for lunch for an hour and leaves the cover off because they will be right back out, a child could still wander over during that time period when the cover is off. A fence is in place at all times.