

ORDINANCE NO. 2008-154

INTRODUCED BY: MAYOR BACCI AND MEMBERS OF COUNCIL, DUSZYNSKI,
FARAGONE, HENLEY, SCHAB, SCHOEFFLER AND SUHY

AN ORDINANCE ENACTING NEW CHAPTER 1486 TO THE CODIFIED ORDINANCE
PERTAINING TO THE REGULATION
OF SWIMMING POOLS, SPAS, AND HOT TUBS

WHEREAS, the Village Council has determined that it is in the best interest of the health, safety, and welfare of the Village residents to enact regulations mandating protective barriers and safety devices for all swimming pools in the Village to prevent uncontrolled access by children from the street and adjacent properties.

WHEREAS, the Village Council has determined that this ordinance is necessary to address the immediate and direct threat to public safety posed by swimming pools without proper barriers and safety devices.

THEREFORE, BE IT ORDAINED by the Council of the Village of Cuyahoga Heights, State of Ohio:

SECTION 1. That Chapter 1486, entitled "Swimming Pools" of the Codified Ordinances, be enacted to read as follows:

1486.01 DEFINITIONS

(a) "Private residential swimming pool" means any indoor or outdoor structure, chamber, or tank containing, or built to contain, a body of water for swimming, diving or bathing intended to serve a residential structure containing not more than three dwelling units and used exclusively by the residents and their nonpaying guests. Any swimming pool other than a private residential swimming pool shall be classified as a public swimming pool.

(b) "Public swimming pool" means any indoor or outdoor structure, chamber, or tank containing, or built to contain, a body of water for swimming, diving, or bathing that is intended to be used collectively for swimming, diving, or bathing and is operated by any person whether as the owner, lessee, operator, licensee, or concessionaire, regardless of whether or not a fee is charged for use, but does not mean any public bathing area, private residential swimming pool or any structure, chamber and tank that is easily portable when empty with a capacity of no more than 150 gallons.

(c) "Residential swimming pool" means any indoor or outdoor swimming pool meeting the definition of a public swimming pool and intended to serve a residential structure containing more than three dwelling units and used exclusively by the residents and their nonpaying guests.

1486.02 PERMIT APPLICATION; FEE

Before work is commenced on the construction of any swimming pool, or any alternation, addition, remodeling or other improvement thereto, an application for a swimming pool permit, together with plans and specification and pertinent explanatory data shall be submitted to the Building Commissioner. The permit fee shall be as provided in Section 1442.16.

1486.03 PROTECTIVE BARRIERS AND SAFETY DEVICES

(a) All outdoor private residential swimming pools shall comply with the following provisions:

(1) All outdoor private swimming pools constructed prior to the effective date of this ordinance, August 13, 2008, shall comply with the following provisions. Any pool not in compliance with the following provisions shall become compliant within one year of the effective date of this ordinance.

a. In-ground pools shall be surrounded on all sides by a fence or other similar barrier at least four 48 inches in height, with no more than 4 inches off the ground. A wall of a dwelling building may be an acceptable barrier under this provision provided that there is no more than 4 inches between the wall and the other barriers used. All gates through the fence or means of access through barrier shall be self-closing and have a self-latching device.

b. Above-ground pools with sides of the structure greater than four (4) feet above grade to not require fencing or other barriers.

(2) All outdoor private swimming pools constructed after the effective date of this ordinance, August 13, 2008, shall comply with the following provisions:

a. The pool shall be surrounded on all sides by a fence or other similar barrier. The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is permitted to be at ground level or mounted on top of the pool structure where the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches. A wall of a dwelling building may be an acceptable barrier under this provision provided that there is no more than 4 inches between the wall and the other barriers used.

b. Openings in the barrier shall not allow passage of a 4-inch-diameter sphere.

c. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

d. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.

e. Access gates and other means of access into the pool area shall comply with the above requirements, shall open outward away from the pool area, and shall be self-closing and self-latching. Where the release mechanism for the latch is less than 54 inches above the finished surface, the release shall be located on the pool side of the gate at least 3 inches below the top of the gate.

f. Where an above ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, the ladder or steps shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier that meets the requirements of this Section.

g. The swimming pool construction shall conform to the Ohio Plumbing Code adopted in Chapter 1424 and the National Electric Code as adopted in Chapter 1426.

(b) All indoor and outdoor residential swimming pools and public swimming pools shall be installed, constructed, operated, and maintained in compliance with the regulations set forth by the Ohio Board of Building Standards as adopted by the Village pursuant to Section 1422.01.

1486.04 DISCONTINUED USE OF POOL

Any owner of any outdoor swimming pool in the Village that has not been used and maintained as a clean, water-filled, functioning swimming for a period of two consecutive years must do one of the following:

(a) Make the swimming pool a clean, water-filled, functioning swimming

pool; or

(b) Fill, demolish, remove or otherwise deconstruct the swimming pool.

1486.04 SPAS AND HOT TUBS

All portable spas and hot tubs shall be installed and maintained in compliance with the regulations set forth by the Ohio Board of Building Standards as adopted by the Village pursuant to Section 1422.01.

1486.05 VIOLATIONS AS NUISANCES; ABATEMENT.

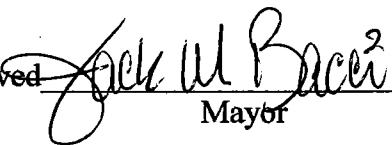
All indoor and outdoor swimming pools shall be installed, constructed, operated or maintained in violation of any of the provisions of this chapter shall constitute a nuisance, and the Village may, in addition to the penalty set forth in Section 1450.99, maintain any proper action for the abatement of such nuisance.

SECTION 2. This Ordinance shall take effect immediately provided it receives the unanimous vote of all members elected to Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: August 13, 2008

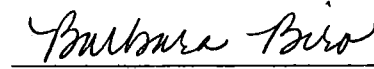
Effective: August 13, 2008

ATTEST:

Approved 
Mayor


President of Council

On August 13, 2008


Clerk of Council