

SEE ALSO 2009 NORTH CAROLINA RESIDENTIAL CODE,  
APPENDIX G, A COPY OF WHICH IS AVAILABLE IN THE  
BUILDING INSPECTIONS DEPARTMENT.

**(As Amended on April 16, 2007)**

### **SWIMMING POOL BARRIER ORDINANCE**

WHEREAS, according to information and estimates published by the U.S. Consumer Protection Safety Commission, the U.S. Center for Disease Control and Prevention, and the National Safety Council:

- Drowning is the second-leading cause of injury related death for all children under the age of 15 and is the leading cause of death nationally for children under the age of five.
- Of the nearly 5,000 children under age 15 who are admitted to hospitals every year for drowning or near-drowning incidents, 15% will die and another 20% will suffer severe, permanent brain damage.
- In 2005, over 2,000 children under the age of five were treated for pool submersion injuries, most of which occurred in residential swimming pools.
- Approximately 300 children under the age of five will drown each year in swimming pools.

WHEREAS, based on the foregoing, the Union County Board of Commissioners has determined that swimming pools which are easily accessible pose a significant danger to young children, and that barriers and gates which obstruct access to swimming pools by children are therefore necessary to protect the public health and safety; and

WHEREAS, Union County has broad authority under N.C.G.S. § 153A-121 to regulate, prohibit, and abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens; and

WHEREAS, pursuant to N.C.G.S. § 153A-140, the Union County Board of Commissioners may order the removal of a swimming pool upon a finding that it is dangerous or prejudicial to public health or safety; and

WHEREAS, N.C.G.S. § 153A-123 authorizes Union County to enforce its ordinance through a variety of mechanisms including civil, criminal, and injunctive remedies; and

WHEREAS, pursuant to N.C.G.S. § 153A-363, the Union County Inspection Department may deny a certificate of compliance for any project that fails to comply with all State and local laws and local ordinances and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE UNION COUNTY BOARD OF COMMISSIONERS that access to swimming pools be protected as follows:

**Section 1: Definitions**

As used in this Ordinance, the following terms shall have the meanings set forth below.

*Barrier* means a fence, wall, building wall, or combination thereof that completely surrounds and obstructs access to a swimming pool.

*Swimming Pool* means an outdoor artificial structure intended for swimming or recreational bathing which contains water over 24 inches deep at any point and which is fitted with a filter for clarifying the pool water or is designed to be fitted with a filter, whether installed or not. This term does not include public swimming pools (which are regulated under N.C.G.S. § 130A-280, et seq. and 15A N.C.A.C. § 18A.2500), hot tubs, or spas.

**Section 2: Requirements for In-Ground Swimming Pools**

- A. Barriers. It shall be the responsibility of any person owning or maintaining an in-ground swimming pool to ensure that the pool is completely surrounded by barriers that conform to the requirements set forth below:
1. The top of the barrier shall be at least forty-eight (48) inches above grade measured on the side of the barrier that faces away from the swimming pool.
  2. The maximum vertical clearance between the bottom of the barrier and grade shall be four (4) inches measured on the side of the barrier that faces away from the swimming pool.
  3. Openings in the barrier shall not allow passage of a sphere that is four (4) or more inches in diameter.
  4. Solid barriers which do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions (except for normal construction tolerances and tooled masonry joints) that could be used to climb such barriers.
  5. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches.
  6. Maximum mesh size for chain link fences shall be a one and one-quarter (1.25) inch square unless the barrier is provided with slats fastened at the

top or the bottom which reduce the openings to not more than one and three-quarter (1.75) inches.

7. Barriers shall be located so as to prohibit permanent structures, equipment, or similar objects from being used to climb the barriers.
- B. Gates. It shall be the responsibility of any person owning or maintaining an in-ground swimming pool to ensure that any gate through which access to the pool may be gained complies with all of the requirements set forth in Section 2(A), above, and also complies with the following:
1. Access gates shall be equipped to accommodate a locking device.
  2. Access gates shall open outward away from the pool, be self-closing, and have a self-latching device.
  3. Where the release mechanism of a self-latching device is located less than fifty-four (54) inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
    - a. The release mechanism shall be located on the pool side of the gate at least three (3) inches below the top of the gate; and
    - b. The gate and barrier shall have no opening greater than one-half (.5) inch within eighteen (18) inches of the release mechanism.

### **Section 3: Requirements for Above-Ground Swimming Pools**

- A. Barriers. The outer walls of an above-ground swimming pool shall serve as barriers preventing access to the pool. It shall be the responsibility of any person owning or maintaining an above-ground swimming pool to ensure that no permanent structures, equipment, or other objects, other than the ladder, steps, or other intended means of gaining access to the pool, are located near the pool such that they could be used to climb over the pool walls.
- B. Gates. Any means of access to an above-ground swimming pool, such as a ladder or steps, shall be capable of being secured, locked or removed to prevent access, or the ladder, steps, or other access shall be surrounded by a barrier which meets the requirements of Section 2 of this Ordinance. When the ladder, steps, or other access are secured, locked or removed to prevent access, any opening created shall not allow the passage of a sphere four (4) or more inches in diameter.

### **Section 4: Penalties and Remedies for Violations or Failure to Comply**

- A. Denial of Certificate of Compliance or Other Final Approval. Failure to comply with this Ordinance shall constitute grounds for the Union County Inspection Department to deny a certificate of compliance or other final inspection approval.
- B. Civil Penalties. Violations of this Ordinance or failure to comply with any of its requirements shall be subject to the following civil penalties for each offense:
- |                               |                              |
|-------------------------------|------------------------------|
| Warning Citation:             | 10 Days to Correct Violation |
| First Citation:               | \$50.00                      |
| Second Citation:              | \$200.00                     |
| Third & Subsequent Citations: | \$500.00                     |
- C. Equitable Relief from a Court of Law. Union County may seek equitable relief from a court of competent jurisdiction pursuant to N.C.G.S. § 152A-123, which relief may include but is not limited to a mandatory or prohibitory injunction and order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises.
- D. Removal by Order of the Board. The Union County Board of Commissioners may order the removal of a swimming pool and its appurtenances upon adequate notice, the right to a hearing, and the right to appeal, in accordance with N.C.G.S. § 153A-140. The expense of any such action shall be paid by the person in default and if not paid, shall be a lien upon the land or premises upon which the pool is located, and shall be collected as unpaid taxes
- E. Criminal Penalties. Violations of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) or up to thirty (30) days imprisonment.
- F. Continuing Violations. Each day that any violation continues after notification of such violation by, or on behalf of, the Union County Inspection Department may be considered a separate violation for purposes of the penalties and remedies set forth in this Section.
- G. Combination of Penalties. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

#### **Section 5: Statutory Amendment**

References in the Ordinance to a particular section of the North Carolina General Statutes are intended to refer to such section as it may have been amended and as it may be amended in the future or to any successor statute. Therefore, if any section referenced herein is amended or superseded after adoption of this Ordinance, this Ordinance shall be deemed to refer to the amended section or to the section that most closely corresponds to the superseded section.

**Section 6: Effective Date**

This Effective Date of this Ordinance shall be the day following adoption by the Union County Board of Commissioners. The provisions of this Ordinance shall not apply to swimming pools for which a general permit has been issued by the Union County Inspections Department prior to the Effective Date.

Adopted this 16<sup>th</sup> day of April, 2007.