

(Ordinance Summary published in The Butler County Times-Gazette on March __, 2014 and the full text of the Ordinance made available at www.andoverks.com for a minimum of one (1) week from the date of publication.)

ORDINANCE NO. ____

AN ORDINANCE (1) AMENDING SECTION 4-511.2 OF CHAPTER IV, ARTICLE 5 OF THE CODE OF THE CITY OF ANDOVER, (2) ADDING SECTIONS 4-1603(bb) AND (cc) OF CHAPTER IV, ARTICLE 16 OF SAID CODE, AND (3) AMENDING SECTION 100(B)(8) OF ARTICLE 6 OF THE CITY OF ANDOVER ZONING REGULATIONS, AS PREVIOUSLY INCORPORATED BY ORDINANCE NO. 1187 OF THE CITY, FOR THE PURPOSE OF ALLOWING POWER SAFETY COVERS AS A SUITABLE BARRIER FOR RESIDENTIAL SWIMMING POOLS.

WHEREAS, the governing body of the City of Andover, Kansas (the “City”) has a stand-alone “Building Code”, but has also previously amended the Code of the City of Andover, Kansas (the “Code”), so as to incorporate by reference both (1) the “International Building Code, 2006 Edition” (the “IBC”) and (2) the “International Residential Code, 2006 Edition” (the “IRC”), each with certain deletions, modifications and additions, all as set forth in the Code; and

WHEREAS, by its Ordinance No. 1187 adopted September 24, 2002 and published in the Official City Newspaper on October 3, 2002, the City adopted the “Zoning Regulations of the City of Andover, Kansas” (the “Zoning Regulations”), including Sections 101(C) of Article 1, 104(A) & (E) of Article 3, and 100(B)(8) of Article 6, all relating to the definition of fences and their necessity.

WHEREAS, the City finds it necessary and desirable to repeal and amend certain provisions of its existing Code (including the IRC) and the Zoning Regulations, in order to conform the differing requirements and remove existing inconsistencies throughout all the Code on the topic of swimming pool barriers, and so to universally allow power safety covers as a suitable barrier for a residential swimming pool, in lieu of a fence or other barrier; and

WHEREAS, following a duly noticed and held public hearing, the City of Andover Planning Commission has recommended approval of this Ordinance to correct all these inconsistencies.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS AS FOLLOWS:

SECTION 1. Repeal and Replacement of Section 4-511.2. Section 4.511.2 of Chapter IV, Article 5 of the Code entitled “Enclosures.” is hereby deleted in its entirety and replaced with the following:

4-511.2. Enclosures and Covers. Outdoor swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Hot tubs and spas with a safety cover, and swimming pools with a power safety cover, which safety cover in each case complies with ASTM F 1346, shall be exempt from the fence or barrier requirements of foregoing paragraph. Provided that, any such cover shall be operated and maintained in a manner which will not reduce its effectiveness as a safety device. Such a cover shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety device without complying with the fence or barrier requirements of the foregoing paragraph.

SECTION 2. Addition of a Safety Cover Exception for Swimming Pools. The City's incorporating reference to the IRC is hereby amended by inserting the following Subsections (bb) and (cc) at the end of Section 4-1603 of Chapter 4, Article 16 of the Code:

(bb) Subsection AG105.2(9) of Appendix G (separating the wall of a dwelling unit from the general definition of barrier) is hereby deleted, and dwelling units shall be considered a part of the recognized barrier.

(cc) AG105.5 of Appendix G, entitled "Swimming Pools, Spas and Hot Tubs" is amended as follows:

AG105.5 Barrier exceptions. Spas or Hot Tubs with a safety cover, and Swimming Pools with a power safety cover, which cover in each case complies with ASTM F 1346, as listed in Section AG107, shall be exempt from the provisions of this appendix; provided the same is installed in accordance with the manufacturer's instructions.

Nothing in this Section 2 shall delete or modify any other matters, as may be set forth or specifically described elsewhere in the International Residential Code and not specifically referenced herein.

SECTION 3. Amendment of Zoning Regulations. The Zoning Regulations are hereby amended by deleting the existing Subsection 100(B)(8) of Article 6 describing Permitted Accessory Uses and substituting the following:

8. Storm shelters, children's playhouses, statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, bathhouses and permanent-type swimming pools.

Nothing in this Section 3 shall delete or modify any other matters contained in the Zoning Regulations.

SECTION 4. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the City, approval by the Mayor and either (a) publication once in the official newspaper of the City, or (b) publication of a summary of this Ordinance certified as legally accurate and sufficient by the City Attorney.

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RECOMMENDED BY THE CITY OF ANDOVER PLANNING COMMISSION AND PASSED, APPROVED AND ADOPTED by the governing body of the City of Andover, Kansas, this 25th day of March, 2014.

CITY OF ANDOVER, KANSAS

[seal]

By _____
Ben Lawrence, Mayor

ATTEST:

By _____
Susan C. Renner, City Clerk

Ordinance Summary published in The Butler County Times-Gazette on March ___, 2014 and the full text of the Ordinance made available at www.andoverks.com for a minimum of one (1) week from the date of publication.

Ordinance No. ____ Summary

On March 25, 2014, the City of Andover, Kansas adopted Ordinance No. ____, which amends Section 4-511.2 of the Code of the City of Andover, Kansas, adds Sections 4-1603(bb) and (cc) to the Code and amends Section 100(B)(8) of Article 6 of the Andover Zoning Regulations, so as conform to the International Residential Code, and allow power safety covers as a suitable alternative to fences and other barriers for outdoor swimming pools. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 1609 E. Central or at www.andoverks.com. This summary is certified legally accurate and sufficient by the Andover City Attorney pursuant to K.S.A. 12-3001, *et seq.*

SUMMARY CERTIFIED:

City Attorney