

## **ORDINANCE NO. B-315**

**AN ORDINANCE OF THE CITY OF BULRESON THAT REQUIRES ALL OUTDOOR SWIMMING POOLS TO BE FENCED OR ENCLOSED; SETTING FENCE HEIGHT; TYPE OF CONSTRUCTION; REQUIRING SELF-CLOSING AND SELF-CATCHING DEVICES ON GATES AND DOORS; APPLYING TO ALL OUTDOOR POOLS; REQUIRING COMPLIANCE FOR EXISTING OUTDOOR POOLS WITHIN NINETY (90) DAYS OF THE PASSAGE OF THIS ORDINANCE; ALLOWING VARIANCES; DEFINING SWIMMING POOLS; REPEALER CLAUSE; SEVERABILITY CLAUSE; PENALTY CLAUSE; AND EFFECTIVE DATE CLAUSE.**

WHEREAS, the City Council of the City of Burleson, deems it necessary and proper to place some restrictions upon landowners or tenants, who own, keep or maintain swimming pools, for the protection and safety of those who are incapable of protecting themselves; and

WHEREAS, the rights of landowners and tenants are fundamental, the protection of children and those with reduced mental facilities is a necessary and proper function of government; and

WHEREAS, the City of Burleson is justified in establishing minimum standards for the enclosure of outdoor swimming pools.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BULRESON, TEXAS, THAT:**

Every outdoor swimming pool in the City of Burleson shall be enclosed or completely surrounded by a fence or wall as required herein.

### **SECTION I.**

Outdoor swimming pool fences or walls shall be not less than four (4) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal spacing between pickets shall not exceed four (4) inches. A dwelling house, or accessory building, may be used as part of such enclosure.

### **SECTION II.**

All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling or accessory building which forms a part of the enclosure need not be so equipped.

### **SECTION III.**

This Ordinance shall be applicable to all new swimming pools hereafter constructed other than indoor pools, and shall apply to all existing pools which have a depth of eighteen (18) inches or more of water at any point, except for deflatable pools and temporary portable pools generally described as “kiddie pools”, which are exempt from the provisions of this Ordinance.

No person in possession of land within the City, whether as owner, purchaser, lessee, or a licensee, upon which is situated a swimming pool having a depth of eighteen (18) inches or more of water at any point shall fail to provide and maintain such fence or wall as herein provided. Any and all fenced swimming pools existing at the time this Ordinance is passed shall be deemed to be in compliance with this Ordinance. Any and all unfenced swimming pools existing at the time this Ordinance is passed shall have ninety (90) days to comply with the terms and requirements herein stated, from the effective date of this Ordinance.

### **SECTION IV.**

The Building Board of Adjustments and Appeals may make modifications in individual cases, upon a showing of good cause with respect to the height, nature of location of the fence, wall gates or latches, or the necessity therefore, provided the protection as sought hereunder is not reduced thereby. Said Board may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the substitute fence, gates and latch described herein.

### **SECTION V.**

The term “swimming pool, as used herein, shall mean a body of water in a artificial or semi-artificial receptacle or other container located outdoors, used or intended to be used for public, semi-public, or private swimming by adults or children, or both adults and children, operated and maintained by any person, whether he be an owner, lessee, operator, licensee or concessionaire, and shall include swimming pools used or intended to be used solely by the owner or friends invited to use it without payment of any fee.

**SECTION VI.**

REPEALER CLAUSE

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this Ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other Ordinances regulating and governing the subject matter covered by this Ordinance.

**SECTION VII.**

SEVERABILITY CLAUSE

If any article, section, sub-section, sentence or phrase of this Ordinance should be held to be invalid for any reason whatsoever such invalidity shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

**SECTION VIII.**

PENALTY CLAUSE

Any person, firm, association of person, corporations, or other organizations violating provisions of this Ordinance shall be deemed to be guilty of a misdemeanor and upon conviction shall be fined in an amount not in excess of Two Hundred (\$200.00) Dollars; each violation of this Ordinance shall be deemed a separate offense and each day that the violation continues shall be deemed a separate offense.