

ORDINANCE NO. 943, N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE
ROBLES AMENDING CHAPTER 17.12, SECTIONS 17.12.010 AND 17.12.020
AND DELETING SECTION 17.12.030 OF THE MUNICIPAL CODE

WHEREAS, the City Council for the City of Paso Robles adopted Chapter 17.12 of the City of Paso Robles Municipal Code, which was appropriate for the time; and

WHEREAS, Municipal Code Chapter 17.12 reflects the language contained in State Health and Safety Code Section 115922, relating to swimming pool barriers; and

WHEREAS, the State of California has amended a portion of the language contained in Health and Safety Code Section 115922, thereby necessitating the need for the City to amend Municipal Code Chapter 17.12 to remain consistent with State requirements;

NOW THEREFORE, the City Council of the City of El Paso de Robles does ordain as follows:

SECTION 1. Section 17.12.010 of Chapter 17.12, "Security Of Bodies Of Water To Be Used For The Purpose Of Human Immersion" of the City of El Paso de Robles Municipal Code is hereby amended in its entirety to read as follows:

Section 17.12.010, Protective enclosures for swimming pools, etc,

- a. Every person who owns or is in possession of any lot or premises on which there is situated a swimming pool, *or pool, any structure intended for swimming or recreational bathing, including in-ground and above-ground structures and includes but is not limited to, hot tubs, spas, portable spas, non-portable wading pools*, fish ponds, wading pools or any other outside body of water created by artificial means designated or used for swimming or other immersion purposes by men, women or children, any portion of which body of water is one and one-half feet or more in depth and in which the surface area of water does not exceed ten thousand square feet, *public swimming pools operated for the use of the general public with or without charge, or for the use of the members and guests of a private club, (public swimming pool does not include a swimming pool located on the grounds of a private single-family home)*, shall maintain a fence, wall, or other structure on the lot or premises completely surrounding such body of water to make same inaccessible to children. Such fence, wall, or other structures shall comply with Article 2, commencing with Section 115920 of the State Health and Safety Code, relating to swimming pools as follows:
 1. The top of the barrier shall be at least five feet above the grade measured on the side of the barrier that faces away from the swimming pool.
 2. Any openings, *gaps, or voids, if any*, in the barrier shall not allow passage *equal to or greater than* a four inch diameter sphere.
 3. Solid barriers which do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions excepting tooled masonry joints.
 4. If the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than forty-eight inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed one and three-quarters inches in width. If there are decorative cutouts, they shall not exceed one and three-quarters inches in width.
 5. If the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is forty-eight inches or more, spacing between vertical members shall not exceed four inches. If there are decorative cutouts within vertical members, spacing's or openings within the cutouts shall not exceed one and three-quarters inches in width.
 6. The maximum mesh size for chain link or wire fences shall be two inches structure. The wire shall not be less than twelve gauge.
 7. If the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than one and three-quarters inches.
 - 8.a. Each access gate shall comply with the requirements of subsections (A) (1) to (A) (7) of this section, inclusive, and shall be equipped to accommodate a locking device.
 - b. Pedestrian-access gates shall open outward away from the pool and shall be self-closing and self-latching.
 - c. Gates other than pedestrian access gates shall have a self-latching device. If the release mechanism of the self-latching device is located less than fifty-four inches from the bottom of the gate, the release mechanism shall be located on the pool side of the gate and barrier have no opening greater than one-half inch maximum dimension within eighteen inches of the release mechanism.
 9. a. The forgoing provisions shall apply to all permanent and to all portable or temporary structures

including those designed or used for swimming or other immersion purposes by men, women or children irrespective of the nature of the materials used in the construction and or the design thereof and irrespective of the length of time of use of such portable or temporary structure.

b. A pool located on a lot with a single-family dwelling or duplex may be protected by a fence around the pool or a fence around the entire lot; the walls of any such building may be used for a partial or complete enclosure of the pool. All other pools shall be protected by a fence around the pool itself.

c. In lieu of a permanent fence being required prior to starting of construction, a temporary enclosure may be installed at time of excavation. Height and gate requirements for temporary enclosures shall be the same as those for permanent fences. The temporary enclosure is to be removed and the permanent enclosure installed in conjunction with installation of the finish decking around the pool or prior to final inspection.

SECTION 2. Section 17.12.020 of Chapter 17.12, “Security Of Bodies Of Water To Be Used For The Purpose Of Human Immersion’ of the City of El Paso de Robles Municipal Code is hereby amended in its entirety to read as follows:

Section 17.12.020, Doors or Gates,

- a. All doors or gates shall be of such size as to completely fill any opening in the fence, wall, or other structure large enough to admit a child and shall be of such size and design so as not to admit any child when it is in a closed position. Such door or gate shall be secured with a locking device or equipped with self-closing and self-latching devices capable of keeping such gate or door securely closed. Such closing or latching devices shall be located not less than *54 inches* above grade or otherwise be inaccessible from the outside to small children. Where a wall of a dwelling serves as part of the barrier, doors with direct access to the pool through that wall shall be equipped with an *exit* alarm that produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed in accordance with UL 2017. The audible alarm shall activate with-in 7 seconds and sound continuously for a minimum of 30 seconds after the door and /or its screen if present, are opened and be capable of being heard throughout the house during normal household activities. The *exit* alarm shall automatically reset under all conditions. In lieu of self-closing and self-latching devices at pools where a direct fee is charged and/or where continuous lifeguard service is provided, doors and gates may be equipped with locks which shall be kept locked at all times when said pool, pond, or other body of water is not in actual use. Lifeguard service shall be as defined in Section 115028 of the Californian Health and Safety Code.

SECTION 3. Section 17.12.030 of Chapter 17.12, “Security Of Bodies Of Water To Be Used For The Purpose Of Human Immersion” of the City of El Paso de Robles Municipal Code is hereby deleted in its entirety:

SECTION 4. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 5. Effective Date. This ordinance shall go into effect and be in full force and effect at 12:01 a.m. in the 31st day after its passage.

SECTION 6. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions or prior ordinance, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 7. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

SECTION 8. Interpretation. Reference to the California Code of Regulations. In administering and interpreting the substantive provisions of this Code, the City shall be guided by and comply with the regulations issued by the California Department of Housing and Community Development in Title 25 of the California Code of Regulations, as well as applicable provisions of other uniform codes adopted by the State. In the event of any inconsistency between the substantive provisions of this code and of Title 25, the provisions of Title 25 shall prevail.

SECTION 9. Reference to other Uniform Codes. All references in this code to sections, chapters or appendices in other uniform codes are to be interpreted as references to the equivalent provisions in the most current version of that uniform code.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared invalid or unconstitutional.

Introduced at a regular meeting of the City Council of the City of El Paso de Robles held on December 18, 2007, and passed and adopted on the 2nd day of January 2008 by the following roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah Robinson, Deputy City Clerk