

GAINES CHARTER TOWNSHIP

KENT COUNTY, MICHIGAN

ORDINANCE NO. 02-MY-13-BLD

The following Ordinance was offered for adoption by Township Board Member Pieters and supported by Township Board Member VanLaan:

AN ORDINANCE TO REGULATE THE INSTALLATION AND APPROVAL OF OUTDOOR SWIMMING POOLS AND FENCING RELATED THERETO; TO PROVIDE FOR REQUIRED DEPOSITS UNTIL OUTDOOR SAFETY HAVE BEEN INSTALLED AND APPROVED; AND TO PROVIDE FOR PENALTIES FOR THE VIOLATIONS OF THIS ORDINANCE.

THE CHARTER TOWNSHIP OF GAINES ("Township") ORDAINS:

Section 1. Purpose and Intent

In the past, some property owners have had outdoor swimming pools installed and have begun to fill such pools with water and utilize them prior to final Township inspections and approvals, and in some situations without any required fencing being in place. The Township Board is concerned about the safety implications of not having required fencing in place and in compliance with all applicable laws prior to the time of swimming pool is filled with water and utilized. The Township Board believes that this Ordinance is necessary to protect the public health, safety, and welfare.

Section 2. Title

This Ordinance shall be known and may be referred to as the "Gaines Charter Township Swimming Pool Deposit Ordinance."

Section 3. Building Code Requirements

All swimming pools located outdoors shall fully comply with the applicable provisions of the Michigan Building Code (as well as its successor and any other applicable codes) at all times, including regulations relating to fencing.

Section 4. Required Permit

No Swimming Pool shall be installed outdoors (nor shall any construction or installation on any such swimming pool commence) until a building permit has been issued by the Township, which expressly authorizes the installation for such a swimming pool, alternately; the Township has issued a separate permit for the pool. the installation, construction, and use of any such swimming pool shall comply with all applicable permit requirements and conditions.

Section 5. Final Township Inspection and Approval

No swimming pool located outdoors shall be filled with water; and no such swimming pool shall be used for wading, floating, or swimming) until and unless the final inspection has been done by the Township (i.e., the applicable Township official or officials) and the Township has given final approval for the swimming pool, required fencing, and other items required by the applicable building code. The Township recognizes that some water may be needed for the proper construction of a pool and this water does not constitute filling the pool for use prior to final approval.

Section 6. Swimming Pool Security Deposit

No permit shall be issued for the installation of a swimming pool located outdoors and no such swimming pool shall be installed, constructed, or used until the owner of the property has deposited with the Township a sum of money to ensure that the swimming pool, fencing and other required appurtenances are properly installed and that the swimming pool is not used prior to such proper installation and final approval by the Township (the "Pool Security Deposit"). The Township Board shall set forth the amount required for such Pool Security Deposit from time-to-time by resolution.

A. Full Refund of the Pool Security Deposit. The full amount of the Pool Security Deposit shall be refunded to the owner of the property involved if all of the following conditions are met:

1. The pool, fencing, and appurtenances have fully been installed as required by the building code and other applicable laws;
2. A final inspection has been done by the Township and the pool, fencing, and other appurtenances have been approved by the Township;
3. The pool has not been filled with water prior to the time of final Township inspection and approval; however, some water is allowable if it required for the proper installation of the pool during construction; and
4. No additional costs have been incurred by the Township due to multiple inspections occurring, which were necessitated due to noncompliance with this Ordinance, the building code, or other applicable codes.

B. Township Retention of the Entire Pool Security Deposit. The Township Building Inspector will make a final inspection and a follow-up inspection of the pool, fencing or appurtenances. However, should any additional inspections of the pool, fencing or appurtenances be necessitated due to the incomplete nature of the work or noncompliance with the building code, this Ordinance or other laws, the Township shall retain and keep one-half (1/2) of the Pool Security Deposit held by the Township, subsections A or B, above, shall be applicable to the remaining portion of the Pool Security Deposit depending on the fact situation.

Section 7. Nuisance

any swimming pool, fencing, or appurtenances installed, constructed, or used violation of this Ordinance, the building code, or any other applicable code shall be a nuisance *per se*.

Section 8. Penalties

Any person who violates any provision of this Ordinance shall, upon conviction, be deemed guilty of a criminal misdemeanor punishable by a fine not to exceed \$500 (plus court costs and the cost of prosecution), by imprisonment in jail for a time not exceeding 93 days, or by both such jail time and fines. Should any willful violation of this Ordinance occur, all of the owners of the property involved shall be deemed to have violated this Ordinance as well as any contractor, subcontractor or other installer of the swimming pool, fencing, or other appurtenances (if different than the owners of the property). Anyone who aids and abets another person in violation of this Ordinance shall also be deemed to be a separate offense. The penalties specified in this Section 8 shall be in addition to any full or partial forfeiture of the Pool Security Deposit by the property owner as specified in Section 6 of this Ordinance.

Section 9. Severability

The various portions of this Ordinance shall be deemed to be severable and should be one or more portions of this Ordinance be declared invalid by a court of competent jurisdiction, that shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 10. Cumulative Effect

This Ordinance shall be deemed to be supplemental to and in addition to the applicable building code provisions and other code provisions.

Section 11. Effective Date

This Ordinance shall become effective 30 after this Ordinance (or a summary thereof) is published in the newspaper as provided by law.

YEAS: Hilton, Pieters, VanLaan, Haagsma, Giarmo, Osterink

NAYS: Fryling

ORDINANCE DECLARED ADOPTED.