ADMINISTRATIVE COMMITTEE AGENDA

Date and Time: **Friday, September 7, 2018 at 12:00PM CDT**
Location: **City Hall Council Chambers, 101 South Boulevard, Baraboo, WI 53913**

Notices:

Full Paper to Members:	Alderpersons: John Alt, John Ellington & Michael Zolper
Full Paper to Others:	Mayor, Mike Palm
Paper excluding Closed Session:	Library for subsequent posting
E-mail:	Media-Committee e-mail group, Clerks
Outlook Meeting Calendar:	Administrator, Ed Geick; Police Chief, Mark Schauf; Finance Director, Cynthia Haggard; Engineer, Tom Pinion
Citizens' notices:	None

1. Call to Order:
    a. Note Compliance with Open Meeting Law.
    b. Approve minutes – August 10, 2018.
    c. Approve agenda.

2. Action Items:
    a. Consider recommendation to the Common Council to change the City Code Chapter 14.13, "Private Swimming Pools" for the purpose of allowing pool covers as a substitution to fences – referred to in section (4) "Fences." ***See the following attachments***:
        i. Memo City Administrator
        ii. Memo City Attorney

3. Information Items;
    a. Date and time of next meeting: October 1, 2018 at 12:00PM CDT

4. Adjournment;
    John Alt, Chairman

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Agenda prepared by Cynthia Haggard, (608) 355-2700

Any person, who has a qualifying disability as defined by the Americans with Disabilities Act and requires the meeting or materials at the meeting to be in an accessible location or format, should contact the Baraboo City Clerk at 101 South Boulevard or phone (608) 355-2700 during regular business hours at least 48 hours before the meeting to ensure reasonable arrangements are made to accommodate each request.

Administrative Committee **August 10, 2018**

Present: Alderpersons John Alt, John Ellington, Michael Zolper
Absent:
Also Present: Mayor, Mike Palm; City Administrator, Ed Geick; Attorney, Emily Truman; Police Chief, Mark Schauf; City Clerk, Brenda Zeman, City Engineer Thomas Pinion

The meeting was called to order by Chairman John Alt at 12:00PM CDT., noting compliance with the Open Meetings Law.

Moved by Ellington to approve the minutes of July 2, 2018, seconded by Zolper and unanimously carried.

Motion by Zolper to approve agenda, seconded by Ellington and unanimously carried.

Review and recommendation to the Common Council to update the Council Member's Handbook.
Atty. Truman noted that at the last Administrative meeting, she was asked to revise the policy so that a quorum of the Council could be considered a simple majority of the Council. Per State statues, a quorum of the Council has to be 2/3. Because this is something we cannot change, Atty. Truman did not provide any other changes to the handbook today. She informed the Committee that in the near future, there could be some other changes to Chapter 2 of the City Code, that is the Common Council section of the City Code, but for today's meeting, none of that, at this point, would change the handbook.

Ellington questioned the Library Board and having a member from the Council. The Mayor notes that we have Council members on the Plan Commission and the Parks Commission, he sees no reason not to have someone on the Library Board because there are budgetary numbers involved. He agrees that if we are going to be doing a revision, this is something that could be part of the discussion for Council to vote on. Atty. Truman agrees that there could be additional discussion on this matter when the Chapter 2 revisions are brought before the Committee. In terms of the handbook, what is before the Committee today is what is current in the code. The Committee could continue to hold this at the committee level until Chapter 2 has been updated and then update the handbook to correspond with that or they could recommend approving this now knowing that if changes to Chapter 2 does happen we would have to make the changes concurrently to the handbook. Her suggestion would be to recommend the approval to Council and then as staff starts to review Chapter 2 we are not feeling quite so pressured.

Motion by Ellington to recommend Council adopt the amended Council Handbook, seconded by Zolper and carried unanimously.

Consider recommendation to the Common Council to change the City Code Chapter 14.13, "Private Swimming Pools" for the purpose of allowing pool covers as a substitution to fences – referred to in section (4) "Fences."
Atty. Truman advised that this was at the last Administrative Committee meeting. Because it died for a lack of a 2nd, it should be treated as a new discussion. Zolper confirmed that from a legal standpoint, it does not go against any of our rules for insurance; the insurance for the City is not liable. Atty. Truman noted that she had talked with our CVMIC representative and there are no concerns about any liability for the City. This is really a policy decision for the Committee. The pool cover that Zolper was specifically talking about is a keyed system that covers the pool automatically. He feels this would be the safest pool cover possible. Zolper asked Chief Schauf for any comments from the Police Department, do they have any concerns? Chief Schauf noted that with this specific system, they do still have to have the winter cover. While the winter cover will take the weight of some water, Chief Schauf is not sure it would is not take the weight of a person. If we were making a change, Zolper would want this to be a requirement. This is the type of cover he was talking about, one that a person could stand up on. Not any pool cover would be accepted. Chief Schauf states that some of the concerns that come up is when they forget to close the pool cover and if the committee does decide to change the policy, making sure that it's articulable so people know what they can get. Atty. Truman pointed out that her memo references word for word how it's included in the International Building Code what's permitted for pool covers. She's attached those specs and her suggestion is that if the committee wanted to recommend change, that the change to the ordinance follow the International Building Code that "requires fencing around a private outdoor swimming pool with the following exception: a

swimming pool with power safety cover or a spa with a safety cover compliant to ASTM F 1346-91". ASTM stands for American Society of Testing Materials. This is one suggestion if they want to move away from fences but wanted to ensure a certain type of cover has to be part of it. Ellington questions if we will have a policing issue making sure everybody's covered. Alt questions how many are in compliance right now. Chief Schauf notes that there are several pools that are not in compliance, some that were put in prior to us having a fencing ordinance. City Engineer Pinion confirms that residents are required to have a building permit to put in a pool. Zolper noted the Test Methods for Safety Covers and the Static Load Test of 485 lbs. to be a pretty strong cover. Zolper feels if they adopt a pool cover based on these standards, it seems like a pretty safe cover. There are just as many concerns with fences such as not people not latching the fences. Chief Schauf questioned if ASTM was a stamp that the pool covers would get on them. The Mayor does not believe this is the case. Zolper is looking to have some options for the owner if the technology is there available to keep the population safe; that is his biggest concern. Alt notes that this may be more appealing sometimes than fencing because fencing does deteriorate and people do not maintain them. Zolper noted that this was the concern of the resident; the resident lives in an area where he wants the view. Alt asked Atty. Truman about her recent search at other communities and she noted that it was an interesting mix. For those communities that allow pool covers, they did not have any requirements in their codes. Atty. Truman encourage they specify some degree of standards for pool covers. Zolper has to assume that a pool company selling a pool to their client has thought of engineering needed to keep families safe. It's up to the homeowners insurance if that covers them or not, but if the City is not held liable and the technology is there to keep us safe, then the choice seems like a nice option if someone wants to keep their view.

Zolper made a motion to postpone a decision to the next meeting, seconded by Ellington and carried unanimously.

Tavern Operator License Appeal for Eric Kaun

Chief Schauf informed the Committee that per the Code, the City utilizes an application process which must be completed. All convictions must be listed on the application because under Chapter 125 of Statues we can consider those when determining whether a person should or should not receive an Operator's License. On Mr. Kauns' application, question #7, "Have you ever been convicted for a violation of any federal laws, state laws of Wisconsin or any other state, as well as any county or municipal violations?" He indicated "No." When the Police Department completed their check, they found 3 convictions for drug related offenses. Based on the findings of that and it not appearing in the ordinance by our code it is an automatic denial by the department head and referral to the Administrative Committee. Atty. Truman informs the committee that the applicant has the right to appeal the decision; the Committee has to make a recommendation to Council to either approve or deny the application.

Eric Kaun, S3163 W. Lake Virginia Rd Reedsburg WI, appeared before the committee and told the committee that he does have a reason for answering "no" on the application. He went through plea bargains and 2 years of probation and everything was supposed to be dropped. He was never told he was convicted. He wasn't trying to hide it, he just personally did not know he had the convictions. He was trying not to be malicious.

Atty. Truman advises the Committee that they need a motion to either recommend approving his application or denying it. Chief Schauf includes that it can either be approved, approved conditionally, or denied. The big difference between a Conditional Operator and a full Operator is that a Conditional is a year by year.

Neil Caflisch, 124 4th Avenue Baraboo WI addressed the Committee. This is the second time he has been here and the last time the person was issued a conditional. He feels Eric has to work some place and he is just asking the Council to recommend a Conditional Operator's License and go year by year.

Eric states that his first conviction was when he was 19, he is 28 now. Schauf confirms the first conviction was 2010, subsequent convictions were both in 2013, similar offenses.

Motion by Ellington to recommend approving a Conditional Operator's License to Eric Kaun, seconded by Zolper and carried unanimously. Eric Kaun and Neil Caflisch were both provided agendas for the August 14th Council meeting.

Consider applications for keeping Chickens

Clerk Zeman noted that this new application was received within the last few weeks. CSO Goetz has approved the application as well as Chief Schauf. The neighbors were all notified and given until August 3rd to dispute the application. Nothing was received by the Clerk's office regarding this application.

Motion by Zolper to approve the chicken application for Melissa Barnes, seconded by Ellington and unanimously carried.

Member comments

The next meeting will be Friday, September 7, 2018 at 12:00PM CDT. Meeting location will be 101 South Boulevard. Moved by Ellington to adjourn, seconded by Zolper and unanimously carried. Meeting adjourned at 12:39PM CDT.

Respectfully submitted,
Brenda Zeman, City Clerk

Action Item 2.a. Attachments

Memo
City Administrator

To:	Administrative Committee
From:	Ed Geick
Subject:	Pool Security Code
Date:	May 24, 2018
CC:	Mayor, City Council, Tom Pinion, Attorney Truman

Alderman Zolper has requested the Administrative Committee consider changes in Chapter 14.13 re: Private Swimming Pool regulations for the purpose of allowing pool covers to be substituted in place of fencing for swimming pool security. It is my understanding this initiative is prompted by a citizen request. A copy of the Chap. 14.13 is in attachment #1.

In attachment #2 there is research done by City Attorney Truman on this topic and a related Minnesota case. Attachment #3 is an opinion letter from former City Attorney Alene Bolin when this same subject came up in 2016.

Attachment #4 is a sample of pool covers of various types that were found in a Google search.

Ed Geick

Attachment #1

or rebuilt nor shall such building, when damages are less than 50% of its fair market value, be so repaired as to be raised higher than the highest part left standing after such damage shall have occurred or so as to occupy a greater space than before the damage thereto.

14.13 **PRIVATE SWIMMING POOLS.** No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building in the City except in accordance with the following regulations:

(1) DEFINITION. "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more than 18 inches deep is contained and which is used primarily for the purpose of bathing or swimming.

(2) PERMIT.

(a) Required. No person shall construct, install, enlarge or alter any private swimming pool unless a permit therefore has first been obtained from the Building Inspector.

(b) Application. Application shall be on forms provided by the Building Inspector and shall be accompanied by plans drawn to scale showing the following:

1. Location of pool on lot, distance from lot lines and distance from structure.
2. Location of any septic tank, filter bed and sewer and water lines.
3. Pool dimensions and volume of water in gallons.
4. Location of proposed fence, and type, size gate location.
5. Existing overhead wiring relative to proposed pool.

(c) Fees. See §14.08(10) of this chapter.

(3) CONSTRUCTION REQUIREMENTS.

(a) No pool shall be located, erected, constructed or maintained closer to any side or rear lot line than allowed by Ch. 17 of this Code for permitted accessory building uses, and the waterline of any pool shall not be less than 10 feet from any lot line or building.

(b) No connection shall be made to the sanitary sewer or septic system.

(c) Where topography requires, a permanent wall of concrete, masonry or material approved by the Building Inspector shall be constructed to prevent ground and fill from spilling onto adjoining property.

(d) Gaseous chlorination systems shall not be used for disinfecting pool waters.

(e) No above-ground pool shall be less than 5 feet from any septic system.

(4) FENCES.

(a) All swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, not less than 5 feet in height and so constructed as not to have voids, holes or openings larger than 4 inches in one dimension. Gates or doors shall be constructed so as to be capable of being locked, and shall be closed and secured so as to prevent unlatching by persons outside the pool at all times when the pool is not in actual use.

(b) Above-ground pools with self-provided fencing to prevent unguarded entry shall be permitted without separate additional fencing, provided the self-provided fence is of the minimum height and design as herein specified.

(c) Permanent access from grade to above-ground pools having stationary ladders, stairs or ramps shall have safeguard fencing and gates equivalent to those required herein, subject to all other applicable ordinances and subject to the following:

1. No fence shall be located, erected, constructed or maintained closer than 3 feet to a pool.
2. The wall of the house or building facing a pool may be incorporated as a portion of such fence.

(5) PORTABLE POOLS. Portable pools over one foot in depth must be fenced as provided in sub. (4) above, or be drained or covered after each day's use in such a manner as to provide public safety.

(6) ELECTRICAL REQUIREMENTS.

(a) To Comply With Electrical Codes. All electrical installations shall require separate permits and shall be governed by the City Electrical Code.

(b) Pool Lights. If overhead flood or other artificial lights are used to illuminate the pool at night, such lights shall be shielded to direct light only on the pool.

(7) OPERATION OF POOL. No pool shall be so operated as to create a nuisance, a hazard or an eyesore or otherwise to result in a substantial adverse effect on neighboring properties.

14.14 **CANOPIES AND MARQUEES.** Any permanent canopy or marquee erected hereafter on any building shall conform to the following provisions:

(1) LOCATION. No canopy or marquee shall have less than 10 feet clear between the grade of the sidewalk at any point and the lowest point of any projection or appendage of any such canopy or marquee and no part of any such canopy or marquee shall extend further over the street than a point 3 feet back on the back edge of the curb. Any such canopy or marquee shall be suspended from the building with no supports resting upon the sidewalk or public highway.

(2) MATERIALS. Canopies and marquees shall be constructed of incombustible materials throughout, shall slope and drain toward the building and shall be provided with conductors connected in such a manner that no water is discharged on any sidewalk.

(3) SIGNS. Any sign or other appendage of a temporary or permanent nature shall be rigidly attached to the canopy or marquee in a manner approved by the Building Inspector and swinging signs or accessories of any nature are prohibited.

14.15 **RADIANT HEATING UNITS.**

(1) DEFINITION. "Radiant heating unit" is a room heater, stove or free standing fireplace not intended for duct connections used to heat a room or rooms using the combustion of such solid fuels as wood or coal as a source of heat.

(2) PERMIT REQUIRED. It shall be unlawful for any person to install or cause to be installed any radiant heating unit in the City without first having obtained a permit from the Building Inspector.

(3) APPLICATION FOR PERMIT. Application for a permit shall be made on a form provided by the Building Inspector. The following data should be submitted with the application:

(a) The manufacturer's installation, maintenance and operations manual, and the manufacturer's approval number.
(b) Type and size of chimney.
(c) The proposed chimney flue or new chimney flue size.
(d) The number and size of existing vent connections to the chimney flue.
(e) The location of the heating unit and the fire resistant coverings to be used, all of which shall be in compliance with Comm. Table 23.04A.

(4) ISSUANCE OF PERMIT. Upon examination of the application and accompanying data by the Building Inspector, the Inspector shall determine whether or not the installation of the radiant heating unit complies with the requirements of this section and, if so, issue the permit; if not, the Building Inspector shall state, in writing, his reasons for not issuing the permit.

(5) INSPECTION. No person may operate or permit the operation of a radiant heating unit until the Building Inspector has inspected and approved the installation thereof.

14.16 **NEW METHODS AND MATERIALS.** All materials, methods of construction and devices designed for use in buildings or structures covered by this code and not specifically mentioned in or permitted by this code shall not be so used until approved in writing by the State Department of Commerce. Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the State Department of Commerce. The date, tests and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the State Department of Commerce.

14.17 **RESERVED.**

14.18 **FENCES.**

Attachment 2

Geick, Edward

From: Truman, Emily
Sent: Tuesday, May 22, 2018 1:21 PM
To: Geick, Edward
Subject: FW: Pool Covers in Lieu of Fencing

Here's my opinion with some case law on the topic.

Thanks,
Emily

Emily Truman | City Attorney
City of Baraboo | 101 South Blvd. | Baraboo, WI 53913
Office: (608) 355-2715 | Fax: (608) 355-2719 | etruman@cityofbaraboo.com

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From: Truman, Emily
Sent: Thursday, November 09, 2017 11:41 AM
To: Pinion, Tom <tpinion@cityofbaraboo.com>
Subject: Pool Covers in Lieu of Fencing

Hi Tom-

I'm finding stuff all across the board in terms of how states/municipalities are handling fencing vs. automatic pool covers. A few states (Michigan, Illinois, etc.) have actually created state laws allowing a powered automatic pool cover in lieu of a fence so long as the pool is situated a certain way on the property; other states have gone the opposite direction and kept the fencing requirement. In Wisconsin a few municipalities (Town of Grafton, Town of Pittsburg) are allowing powered covers in lieu of fencing, but it's definitely not a universal trend. Given the temperature on the topic, I wouldn't advise making an exception at this time, even with an indemnification. That said, I don't see any problem with suspending enforcement with an indemnification at your discretion, and if the property owners really want to push the issue, if you think there's the potential for a viable discussion for changing the ordinance at this time.

Here's an interesting case on the issue:

Gregory Frandsen, et al. v. City of North Oaks
(Minnesota Court of Appeals, February 19, 2013)

The City of North Oaks enacted an ordinance (§§ 150.055-.062) in 1989 that requires permits to build swimming pools and that swimming pools be enclosed by safety fences. Michael Johnson, James Rechtiene, and Gregory Frandsen (the appellants) own swimming pools not enclosed by fences, despite their permits being contingent upon compliance with the fencing requirement. Instead all three have automatic locking pool covers. In April 2010, the City notified the appellants that they were in violation of the fencing requirement. The appellants asked the City to consider amending the ordinance so that it would allow automatic locking covers to serve as an alternative. The City agreed to suspend enforcement and research the alternative.

After forming subcommittees to research several alternatives, reviewing information from insurance companies, and hearing from citizens at public hearings the planning commission agreed to recommend to the city council that fences be required to enclose all pools built after 1989, that the back of a home could be used as one side of the enclosure, and that locking covers not be allowed as a substitute for the fencing requirement. At a December 2010 meeting, the city council voted in favor of the planning commission's recommendation. The amended ordinance became effective in July 2011. So in April 2011, the City notified the appellants that they had until July 1 to comply with the amended ordinance. Appellants responded by bringing this suit against the City, alleging that the amended ordinance violates their equal protection rights and that the amended ordinance is arbitrary and capricious. The district court denied their appeal, so the appellants appealed to the Minnesota Court of Appeals.

The Minnesota Court of Appeals' duty is to determine "whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment." The district court referred to the ordinance as one that "promote[s] the health, safety and general welfare of [the city's] residents." The Minnesota Court of Appeals agreed that the ordinance is a general safety ordinance.

By exempting pre-1989 pools from the ordinance, the appellants argued that their equal protection rights were violated. They argued that there is no rational reason for this exclusion when the purpose of the ordinance is to keep children from harm: "[W]hatever danger to children exists with respect to pools built after the effective date of the ordinance also exists with respect to pools built before the effective date of the ordinance." Since the City's pool safety-fence ordinance became effective in May 1989, building permits of pools prior to May 1989 were not conditioned to comply with this ordinance. But the appellants' building permits were conditioned to comply with this ordinance because their pools were built after 1989. Therefore the appellants are not similarly situated to homeowners who built pools prior to 1989. In addition, "the practice of grandfathering non-conforming properties has been upheld in the face of equal-protection challenges since at least 1914." The appellants failed to explain why grand-fathering is rational with respect to zoning ordinances, but irrational with respect to a general welfare ordinance, so the Minnesota Court of Appeals ruled that it was not a violation of equal protection for the City to treat its residents differently with respect to the law effective when their pools were built.

The appellants also argued, without explanation, that the amended ordinance was arbitrary and capricious because it allowed a wall of a building to serve as one side of the enclosure, which they argued increased the risk of harm to children. The appellants cited a unidentified report from "US Public Safety Commission" that supported the conclusion that a house should never be considered part of the fence. But the court could not verify the existence of a "US Public Safety Commission." To the contrary, the U.S. Consumer Product Safety Commission report considered by the planning commission stated that "when a door opens directly onto the pool area, 'the wall of the house is an important part of the pool barrier.'" Amending an ordinance is a legislative power in which the municipality has discretion as long as there is a rational basis for its decision. The court held that the City's decision is rational because it is directly related to promoting prevention of trespassing children gaining access to pools. The City's decision is not arbitrary as long as one valid reason exists.

Finally, the appellants contested the City's decision to not allow pool covers as an alternative to the fence requirement. They pointed to evidence that showed that a pool cover is a safe and viable alternative to a fence. This evidence does not mandate that the City to allow pool covers as an alternative, however. The City researched the issue for more than six months and considered numerous resources before reaching a decision. The City expressed concern for pool covers' susceptibility to mechanical failures, human errors, and enforcement issues. The decision to require fences and not allow locking covers as substitutes is a rational decision.

The Minnesota Court of Appeals affirmed the district court's decision to deny the appellants' claims.

Thanks,
Emily

Attachment 3

Geick, Edward

From: Kleczek Bolin, Alene
Sent: Friday, September 02, 2016 8:02 AM
To: Pinion, Tom
Subject: RE: Swimming Pool Regulation

An electric automatic pool cover would not take the place of a fence. First, there would be nothing to protect the pool when it is in use. Second, it would be too easy to remain uncovered. Third, it violates our code.

Alene

Confidentiality.

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From: Pinion, Tom
Sent: Thursday, September 01, 2016 5:11 PM
To: jimbob1656@gmail.com
Cc: Kleczek Bolin, Alene
Subject: Swimming Pool Regulation

Mr. Bobeck,

Following is an excerpt from the City's Building Code regulating private swimming pools and the corresponding fencing requirements. As I understand the situation, you are proposing to install a electronic automatic pool cover in lieu of a fence that affords the same "level of protection". Your pool contractor has explained that this is the new industry standard and that the vast majority of new pools have electronic covers and no fences. As we discussed, I will consult the City Attorney on this matter and one of us will contact you within the next week.

14.13 PRIVATE SWIMMING POOLS. No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building in the City except in accordance with the following regulations:

(1) DEFINITION. "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more than l8 inches deep is contained and which is used primarily for the purpose of bathing or swimming.

(2) PERMIT.
(a) Required. No person shall construct, install, enlarge or alter any private swimming pool unless a permit therefore has first been obtained from the Building Inspector.

(b) Application. Application shall be on forms provided by the Building Inspector and shall be accompanied by plans drawn to scale showing the following:

1. Location of pool on lot, distance from lot lines and distance from structure.
2. Location of any septic tank, filter bed and sewer and water lines.
3. Pool dimensions and volume of water in gallons.
4. Location of proposed fence, and type, size gate location.
5. Existing overhead wiring relative to proposed pool.

(c) Fees. See §14.08(10) of this chapter.

(3) CONSTRUCTION REQUIREMENTS.

(a) No pool shall be located, erected, constructed or maintained closer to any side or rear lot line than allowed by Ch. 17 of this Code for permitted accessory building uses, and the waterline of any pool shall not be less than 10 feet from any lot line or building.
(b) No connection shall be made to the sanitary sewer or septic system.
(c) Where topography requires, a permanent wall of concrete, masonry or material approved by the Building Inspector shall be constructed to prevent ground and fill from spilling onto adjoining property.
(d) Gaseous chlorination systems shall not be used for disinfecting pool waters.
(e) No above-ground pool shall be less than 5 feet from any septic system.

(4) FENCES.

(a) All swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, not less than 5 feet in height and so constructed as not to have voids, holes or openings larger than 4 inches in one dimension. Gates or doors shall be constructed so as to be capable of being locked, and shall be closed and secured so as to prevent unlatching by persons outside the pool at all times when the pool is not in actual use.

(b) Above-ground pools with self-provided fencing to prevent unguarded entry shall be permitted without separate additional fencing, provided the self-provided fence is of the minimum height and design as herein specified.

(c) Permanent access from grade to above-ground pools having stationary ladders, stairs or ramps shall have safeguard fencing and gates equivalent to those required herein, subject to all other applicable ordinances and subject to the following:

1. No fence shall be located, erected, constructed or maintained closer than 3 feet to a pool.
2. The wall of the house or building facing a pool may be incorporated as a portion of such fence.

(5) PORTABLE POOLS. Portable pools over one foot in depth must be fenced as provided in sub. (4) above, or be drained or covered after each day's use in such a manner as to provide public safety.

(6) ELECTRICAL REQUIREMENTS.

(a) To Comply With Electrical Codes. All electrical installations shall require separate permits and shall be governed by the City Electrical Code.

(b) Pool Lights. If overhead flood or other artificial lights are used to illuminate the pool at night, such lights shall be shielded to direct light only on the pool.

(7) OPERATION OF POOL. No pool shall be so operated as to create a nuisance, a hazard or an eyesore or otherwise to result in a substantial adverse effect on neighboring properties.

Thanks.

Attachment #4

Shop for Pool covers on Google Sponsored

Yard Guard Deck-Lock 16 x 32 Fe...
$429.99
Google Express
Free shipping

1099SF Flush Track Automatic...
$6,249.00
Royal Swimmin...
Free shipping

16' x 24' Rectangle HPI...
$139.99
National Discou...
Free shipping

Sun2Solar Crystal Clear Solar Cove...
$49.49
PoolSupplies.com
★★★★½ (30)

Pool Boy li Electric Ingroun...
$1,195.00
Pool Supplies S...
Free shipping

Pool Cover 16x32 - Blue In-ground...
$465.00
MFS Supply
Free shipping

16' x 32' rectangular 100...
$899.99

Dura-Guard Mesh 20 ft. x 40 ft. Po...
$90.26

Intex Easy Set Swimming Pool...
$15.99

MEMO City Attorney's Office	

To: Administrative Committee
Mayor Mike Palm
City Administrator Ed Geick
From: Emily Truman, City Attorney
Date: July 2, 2018
Re: Fencing Requirement around Private Pool

At the June 4, 2018, Administrative Committee meeting, I was asked whether the City could face liability should the City amend its current ordinance requiring a fence enclosure around a private outdoor swimming pool and instead allow a power safety cover. On June 7, 2018, I spoke to the City's liability representative at CVMIC, Tom Mann, regarding this question. Mr. Mann opined that the City would be immune from liability should the City amend its ordinance as is being considered. I agree with Mr. Mann.

The above notwithstanding, the City is under no legal requirement to amend its ordinance as the ordinance promotes the health, safety and general welfare of the City's residents and is not arbitrary or capricious. Should the Council choose to amend the ordinance, however, it is advised that certain safety standards still apply. The International Building Code, for example, requires fencing around a private outdoor swimming pool with the following exception: "A swimming pool with a power safety cover or a spa with a safety cover complying with ASTM F 1346-91." See attached.

For comparison purposes, a review of other municipality's ordinances regarding private pool safety resulted in the following:

- Appleton: Fence required unless it is an above ground pool with walls at least 48" high.
- Beaver Dam: Requires a pool cover "of such design and material that it can be securely fastened and, when in place, support a person weighing 150 pounds."
- La Crosse: Fence required.
- Madison: Fence required unless it is an above ground portable pool.
- Manitowoc: Fence required unless it is a "kiddie pool."
- Portage: Fence required or a "cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes."

- Reedsburg: Fence required.
- Rhinelander: Fencing or other enclosure/screening required.
- Sauk City: Fence required or a "cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes."
- Verona: Fence required.

Designation: F 1346 – 91 (Reapproved 2003)

Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs[1]

This standard is issued under the fixed designation F 1346; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ϵ) indicates an editorial change since the last revision or reapproval.

1. Scope

1.1 This specification establishes requirements for safety covers for swimming pools, spas, hot tubs, and wading pools (hereinafter referred to as pools, unless otherwise specified). When correctly installed and used in accordance with the manufacturer's instructions, this specification is intended to reduce the risk of drowning by inhibiting the access of children under five years of age to the water.

1.2 This specification includes performance tests to demonstrate the compliance or noncompliance to requirements herein stated for safety covers. It also includes marking requirements for all covers.

1.3 The values stated in inch-pound units are to be regarded as the standard. The values in parentheses are given for information only.

1.4 The following safety hazards caveat pertains only to the test methods section, Section 9, of this specification: *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.*

2. Referenced Documents

2.1 *NFPA Document:*

National Electrical Code, Article 680-26[2]

3. Terminology

3.1 *Definitions of Terms Specific to This Standard:*

3.1.1 *appurtenances*—subordinate parts or adjunct accessory components to the cover such as hardware including buckles, straps, ties, springs, anchors, tracks, rollers, lifting arms, and the like.

3.1.2 *automatic cover*—a cover which can be placed over the water area and removed with a motorized mechanism actuated by a suitable control mechanism. See also *power safety cover (PSC), other cover (OC).*

3.1.3 *barrier*—something that restrains or obstructs access to the body of water.

3.1.4 *blanket*—a material used for thermal insulation. See also *solar energy blanket.*

3.1.5 *cover*—something that covers, protects or shelters, or a combination thereof, a swimming pool, spa, or hot tub.

3.1.6 *debris cover*—a cover with attendant appurtenances positioned over the pool area which permits the cover to prevent debris, such as foliage, dirt, windblown trash, and the like from entering the pool. It is intended to be completely removed before the entry of bathers. See also *other covers (OC).*

3.1.7 *decks*—those areas abutting a pool, spa, or hot tub that are specifically constructed or installed (for example, of wood, concrete, brick, stone, and the like) for use by bathers for sitting, standing or walking and may also act as a base for supports for covers.

3.1.8 *dome*—a semipermanent enclosure supported by trusses, or positive air pressure erected over the pool area to provide temperature and atmospheric control over the pool environment.

3.1.9 *energy conservation*—the reduction of heat loss from pool water through air convection or evaporative cooling, or both.

3.1.10 *hot tub*—a spa constructed of wood with sides and bottoms formed separately; and the whole shape joined together by pressure from surrounding hoops, bands or rods; as distinct from spa units formed of plastic, concrete, metal, or other materials.

3.1.11 *inaccessible locations*—a location at least 5 ft (1.5 m) above the ground with no other access such as hand or footholds which would permit a child to reach the location.

3.1.12 *manual cover*—a cover which requires it to be placed over the water area by hand. See also *manual safety cover (MSC)*, and *other covers (OC).*

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[1] This specification is under the jurisdiction of ASTM Committee F15 on Consumer Products and is the direct responsibility of Subcommittee F15.28 on Covers for Pools, Spas, and Hot Tubs.

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[2] Available from National Fire Protection Assoc., Batterymarch Park, Quincy, MA 02269.

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3.1.13 *markings*—the application of numbers, letters, labels, tags, symbols or colors to provide identification and safety information and to expedite handling during shipment and storage.

3.1.14 *manual safety cover (MSC)*—a barrier which requires it to be placed over the water manually. Provides a high level of safety for children under the age of five by inhibiting their access to the water.

3.1.15 *other covers (OC)*—includes any cover type not incorporated in the other two classifications; PSC, MSC. They are not intended to serve as a barrier for children under the age of five.

3.1.16 *power safety cover (PSC)*—a barrier which can be placed over the water area and removed with a motorized mechanism actuated by a suitable control mechanism. Provides a high level of safety for children under the age of five by inhibiting their access to the water.

3.1.17 *safety cover*—a barrier (intended to be completely removed before entry of bathers), for swimming pools, spas, hot tubs or wading pools, attendant appurtenances and/or anchoring mechanisms which reduces—when properly labeled, installed, used and maintained in accordance with the manufacturers' published instructions—the risk of drowning of children under five years of age, by inhibiting their access to the contained body of water, and by providing for the removal of any substantially hazardous level of collected surface water. See also *power safety cover (PSC)*, and *manual safety cover (MSC)*.

3.1.18 *solar energy blankets*—a cover which is a floating translucent (not transparent) heat insulating sheet incorporating, for example, encapsulated air bubbles or similar low heat transfer (floating) sheet material whose purpose is to inhibit heat dissipation from the pool water surface through air convection or evaporative cooling. The sheet material, customarily translucent (not transparent) to permit the transfer of solar radiation energy directly to the pool water at all depths and intended for day and night use, is cut to the shape of the pool and is not affixed to the pool structure. It is intended to be completely removed before the entry of bathers.

3.1.19 *energy conservation blanket*—a cover which is a floating heat insulating sheet material incorporating, for example, a cellular foam or similar low-heat transfer material whose purpose is to inhibit heat loss from the covered water, through air convection or evaporative cooling, or both. Such materials are customarily cut to the shape of the pool and are intended for a night covering. The blanket is not affixed to the pool structure. It is intended to be completely removed before the entry of bathers.

3.1.20 *wading pool*—a shallow pool intended for wading, not swimming.

3.1.21 *waterline*—the waterline shall be defined in one of the following ways:

3.1.22 *skimmer system*—the water line shall be at the mid-point of the operating range of the skimmers.

3.1.23 *overflow system*—the waterline shall be at the top of the overflow outlet.

4. Cover Classifications and Minimum Qualification Criteria

4.1 *Power Safety Cover (PSC)*—Provides a high level of safety for children under the age of five by inhibiting their access to the water.

4.1.1 Must satisfy 5.1-5.3, 6.1-6.5, 7.1-7.4, 8.1, 8.2, 8.4-8.12, 9.1-9.4, 10.1-10.4, and all subsections.

4.2 *Manual Safety Cover (MSC)*—Provides a high level of safety for children under the age of five by inhibiting their access to the water. May require a longer period of time to be fully secured.

4.2.1 Must satisfy 5.1-5.3, 6.1-6.5, 7.1-7.4, 8.1, 8.2, 8.4-8.12, 9.1-9.4, and all subsections.

4.3 *Other Covers (OC)*—Includes any cover type not incorporated in the other two categories MSC, PSC. They are not intended to serve as a barrier for children under the age of five. Design characteristics may be hazardous when used in the presence of children under the age of five.

4.3.1 Shall satisfy 5.1-5.3, 8.1-8.3, 8.5-8.12, and all subsections.

5. Materials and Manufacture

5.1 Only materials not known to be harmful to health, within the intended application, shall be used.

5.2 All materials and components shall be durable and satisfactory for the intended purpose under the conditions normally prevailing at the site.

5.3 The cover shall be manufactured or fabricated, or both, in accordance with generally accepted, good manufacturing practices.

6. General Requirements for Safety Covers

6.1 *Installation/Use of safety covers*—Unless installed by the manufacturer, or responsible parties, or both, detailed instructions for installation shall be given in a form included in the packaging or a label, or both, attached to the cover.

6.2 Labels attached to the cover shall meet the general requirements described in 8.5.1 and 8.8-8.8.2.

6.3 *Markings for safety covers shall include*:

6.3.1 the manufacturer's name,

6.3.2 date manufactured or installed, and

6.3.3 instructions to consumers to inspect the cover for premature wear or deterioration.

6.3.4 Labels attached to covers shall meet the general requirements described in 8.4.1, 8.7-8.8.1, and 8.9.

6.4 *Fastening mechanisms or devices*—Ties, attachment points, anchors, anchorage, and controls for automatic covers or other means of fastening a cover shall include provisions such as keys, combination locks, special tools, devices, or inaccessible locations, and the like, to inhibit children under five years of age from removing or operating the cover. When subjected to the load and perimeter deflection tests described in 9.1 and 9.2, all fastening devices shall remain in their intended, secured or closed, or both, position. After the test, the intended performance of the device should not be impaired.

6.5 *Openings*—The cover shall be designed in such a way that, when it is tested by the test method described in 9.4, any opening in the major component or between the edge of the

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cover and the deck surface or coping wall, or both, and the top surface of the spa or pool does not allow the test object to pass through. The test object shall not gain access to the water, or be subject to entrapment.

6.6 Seams, ties or welds in the cover shall show no signs of damage, which will impair intended performance of the device when the cover is tested by the methods described in 9.1-9.4.

7. Performance Requirements for Safety Covers

7.1 *Static Load*—In the case of a pool with a width or diameter greater than 8 ft (2.4 m) from the periphery, the cover shall be able to hold a weight of 485 lb (220.0 kg) (2 adults and 1 child) to permit a rescue operation.

7.1.1 In the case of a pool with a width or diameter not greater than 8 ft (2.4 m) the cover shall withstand the weight of 275 lb (125 kg) (weight of a child and an adult). Compliance shall be determined by the test method described in 9.1.

7.2 *Perimeter Deflection*—The cover shall be designed in such a way that, when it is tested by the test method described in 9.2, deflection of the cover does not allow the test object to pass between the cover and the side of the pool, or to gain access to the water.

7.3 *Surface Drainage*—The cover shall be so constructed, or incorporate a system, or have an auxiliary system provided, that when used in accordance with the manufacturer's instructions, shall drain substantially all standing water from the cover within a period of 30 min after cessation of normal rainfall. Compliance shall be determined by the test in 9.3.

7.4 *Opening Tests*—The tests shall be conducted by the test method described in 9.4 to demonstrate that any opening in the major component or between the edge of the cover and the deck surface or coping wall, or both, and the top surface of the pool or the top surface of the spa is sufficiently small and strong to prevent the opening from being forced to a size that will allow the test object to pass through.

8. Minimum Label Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs

8.1 *Product Label*—All covers shall be labeled/marked to identify manufacturers or other responsible parties (such as private label distributors), or both. Labels attached to covers shall meet the general requirements described in 8.5.1 and 8.8-8.8.2.

8.2 *Warning Labels*—All covers shall be required to have attached the following warning label:

8.2.1 *Signal Word*—**WARNING.**

8.2.2 *Safety Alert Symbol*—Preceding the signal word there shall be triangle with an exclamation point inside the triangle.

8.2.2.1 *Word Message*—The standard word message shall be AVOID DROWNING RISK which shall be the first message to appear directly under the signal word.

8.2.2.2 *Additional Word Message Statement*—Covers with any of the outlined hazards in Fig. 1 shall list all applicable warning statements on the label.

8.3 *Color*—Non-safety cover warning label.

8.3.1 *Signal Word*—Black letters with orange background.

8.3.2 *Safety Alert Symbol*—Black triangle with orange exclamation point.

8.3.3 *Word Message*—Black lettering on white background or white letters on black background.

8.4 *Color*—Safety cover warning label.

8.4.1 Colors assigned to the signal word panel may also be used for the message word panel provided the panel colors contrast with the lettering of the label. This is applicable to covers conforming with the PSC and MSC classifications only.

8.5 *Warning Label*—Letter size.

8.5.1 Lettering shall be of a size that enables a person with normal vision, including corrected vision, to read the safety sign or label at a safe viewing distance from the hazard. Considerations should be given to environmental variables that will affect readability.

8.5.2 *Signal Word*—Letter height shall be at least 50 % greater than the selected height of the message panel wording.

8.5.3 *Safety Alert Symbol*—Safety alert symbol, when used with the signal word shall precede the signal word. The base of the safety alert symbol shall be on the same horizontal line as the base of the letters of the signal word. The height of the safety alert symbol shall equal or exceed the signal word letter height.

"HAZARD/WARNING STATEMENT CHART"

If This Hazard Exists:	Add This Warning Statement:
*Will not support weight (as defined in this specification) Nonsecured or improperly secured covers	*Stay off cover—will not support weight.
*Concealment by slipping under cover	*Keep children away. Children or objects cannot be seen under cover.
*Drowning on top of cover in accumulated surface water (as defined in this specification)	*Remove Standing Water—child can drown on top of cover.
*Concealment, Entrapment—Drowning under cover	*Remove cover(s) completely before entry of bathers—entrapment possible.
*General requirement for all covers	*Non-secured or improperly secured covers are a hazard.
*Option to above for Safety Covers	*Failure to follow all instructions may result in injury or drowning.
*Cover does not meet all requirements of this specification for PSC, MSC.	*This is not a Safety Cover.

FIG. 1 Hazard/Warning Statement Chart

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8.5.4 Word message letter height shall be as defined in Table 1.

8.6 *Letter style*:

8.6.1 Signal Word shall be in sans serif letters in upper case only.

8.6.2 Message Panel shall be in sans serif letters. Letters may be in upper case only.

8.6.3 Examples of acceptable lettering styles are: medium or bold helvetica, or news gothic bold.

8.7 *Placement*—Location shall be such that the message will:

8.7.1 Be readily visible to the intended viewer, taking into consideration all possible viewing angles, and

8.7.2 Alert the viewer to the potential hazard in time to take appropriate action.

8.7.3 Label must be located so as not to be removed in the fitting process.

8.8 *Life Expectancy*—The label shall have a reasonable expected life with good color stability and word message legibility when viewed as stated in 8.5.1. Reasonable expectancy shall be taken into consideration in accordance with the expected life of the product.

8.8.1 *Protection*—When possible, placement of label should provide protection from foreseeable damage, fading, or visual obstruction caused by abrasion, ultraviolet light or substances such as chemicals or dirt.

8.8.2 *Attachment*—The label shall be attached permanently to the product or so that it cannot be easily removed.

8.9 *Replacement*—Product/Warning labels should be replaced by the product user when they no longer meet legibility requirements for safe viewing distance described in 8.5.1 and 8.9.1. In cases where products have an extensive expected life or where exposed to extreme conditions, the product user should be able to obtain replacement labels from the manufacturer or responsible party.

8.10 *Instruction/Use Label*—Any product instructions or use label not attached to the product, intended to be viewed by the consumer/user shall contain in its contents the same applicable warning label as set forth in 8.2-8.6.3.

8.10.1 When special circumstances limit use of label colors to two colors, the colors assigned to the message word panel may also be used for the signal word panel provided that the panel colors contrast with background color of instruction/use label.

8.11 *Packaging Label*—If packaging is intended for product display to the consumer/user, applicable warning label as described in 8.2-8.6.3 shall be placed on the printed side of the package intended for display and/or consumer information. The label shall be printed on or affixed to the package and not easily removable.

8.11.1 When special circumstances limit use of label colors to two colors, the colors assigned to the signal word panel may also be used for the message word panel provided that the panel colors contrast with background color of packaging.

8.12 *Compliance Labeling*—All labels shall note the specific cover classification.

TABLE 1 Word Message Letter Height Sizes

Safe Viewing Distance	Minimum Letter Height for FAVORABLE Reading Conditions	Minimum Letter Height for UNFAVORABLE Reading Conditions
less than 24 in.	$\text{Height (in.)} = \frac{\text{View Distance}}{150}$	$\text{Height (in.)} = \frac{\text{View Dist.}}{75}$
24 to 96 in.	$\text{Height (in.)} = \frac{\text{View Distance}}{300}$	$\text{Height (in.)} = \frac{\text{View Dist.}}{150}$
greater than 96 in.	$\text{Height (in.)} = \frac{\text{View Distance}}{400}$	$\text{Height (in.)} = \frac{\text{View Dist.}}{300}$

9. Test Methods For Safety Covers

9.1 *Static Load Test*:

9.1.1 This test shall be conducted to demonstrate that the cover is capable of supporting a weight of (a) 485 lbs (composed of one 210-lb, one 225-lb or one 50-lb weight) for pools or spas within a width or diameter greater than 8 ft or (b) 275 lbs (composed of one 225-lb and one 50-lb weight) for a pool or a spa with a width or diameter equal to or less than 8 ft distributed over 1 ft^2 each, all of which are within a 3-ft radius without the test objects causing damage which would allow any of the test objects to pass through the cover. During this test there shall be no requirement for the absence of water appearing on the surface of the cover.

9.1.2 *Procedure*—The pool shall be filled to its waterline and the cover fitted in accordance with the cover manufacturer's instructions. The test objects shall be placed on the surface of the cover at the following critical points:

9.1.2.1 The center point of the cover.

9.1.2.2 Between attachment points and a distance of at least 4 ft (1.2 m) but not to exceed 6 ft from the side of the pool.

9.1.2.3 The test objects shall remain in each test position for a period of 5 min.

9.2 *Perimeter Deflection Test*:

9.2.1 This test shall be conducted to demonstrate the following: if a child under the age of five were to fall onto the cover neither that child nor another child could slip through any openings that may occur between the cover and the side of the pool.

9.2.2 *Perimeter Deflection Test Object*—Test object shall be 3.7 in. (0.09 m) by 5.7 in. (0.14 m) by a minimum 12 in. length and a weight of 36.6 lbs in an ellipsoidal shape. See Fig. 2.

9.2.3 *Procedure*—With 50 lbs (22.7 kg) on the cover at a distance of at least 4 ft, but not exceeding 6 ft from the side of the pool, the same cover shall not deflect to allow a perimeter test object to pass through, gain access to the water or be subject to entrapment between the cover and the side of the pool.

9.3 *Surface Drainage Test*:

9.3.1 *Surface Drainage Test Object*—Timmy[3] or equivalent (32 in. length by 9 in. width by 5 in. deep by 36.6 lbs torso-shaped object) shall be placed on the pool cover in a supine position, faceup, within two to three feet of and parallel with the pool's edge. Three minutes later there shall not be an unsafe amount of water. An unsafe amount of water is defined

[3] "Timmy" is a CPR mannequin, three year old boy; available from Simulaids Inc., P.O. Box 807, Dixon Avenue, Woodstock, NY 12489.

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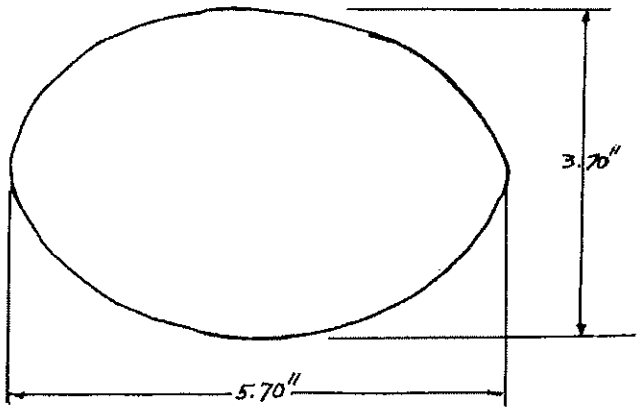

NOTE 1—Area = 16.6 in.^{2}
NOTE 2—Perimeter = 15.0 in.

FIG. 2 Template for Swimming Pool Cover Standard

as any quantity of water which completely covers the torso of the surface drainage test object.

9.3.2 *Procedure*—Test the cover by spraying water evenly over the area at an application rate of 10 gal/min per 1000 ft^2 (9.29 m^2) of pool area for a period of 30 min. During this test, all equipment shall operate in accordance with cover manufacturer's instructions. Thirty minutes after completion of this procedure, the cover shall pass the test method in 9.3. At all times during the procedure, maintain the pool level at the waterline.

9.4 *Openings Test*:

9.4.1 These tests shall be conducted to demonstrate that any openings remain small enough to prevent a small child's head from gaining access to the water.

9.4.2 *Openings test object*—A solid faced sphere test object with a maximum breadth of 4.5 in.

9.4.3 *Procedure*—The cover shall be fitted in accordance with the cover manufacturer's instructions. The test object shall be placed at or into any existing opening and apply a force of 40 lbs (plus or minus 1 pound) steadily to ensure the test object cannot pass through at the following critical openings:

9.4.3.1 Any opening between the edge of the cover and the deck surface and coping wall, or both, or the top surface of the spa or pool.

9.4.3.2 Any opening in the major component of the cover.

10. Operating Controls, Safety Covers

10.1 The open-close switch shall be spring-loaded or of the momentary contact type, so that when released, the cover stops operation immediately at any point in the open or closed cycle period.

10.2 The cover shall be reversible in direction from a full stop at any point in its travel without having to complete the full open or closed cycle.

10.3 Electrically operated control switches and motors shall be installed in accordance with the National Electrical Code Article 680-26.

10.4 The type of pool covering operating controls shall be such that:

10.4.1 Its fixed location is in the line of sight of the complete pool cover, or by its operating process. This ensures that the operator shall be in complete view of the cover at all times during the closing or pool covering process.

10.4.2 Switching devices shall be key-operated or locked away or able to be de-activated or otherwise located in an inaccessible location. An inaccessible location shall be at a height of at least five feet above the deck.

ANNEX

(Mandatory Information)

A1. RATIONALE

A1.1 Scope

A1.1.1 Although the majority of child-drowning and near-drowning which were reported did not involve safety covers, those who purport to provide a level of safety should be held to a higher level of reliability. Injury reports made available from CPSC indicate that male children, one and two years of age, living in a home with an in-ground pool are at the highest risk of being involved in a submersion incident that requires medical care.

A1.2 Referenced Documents

A1.2.1 Allows document reviewers the necessary information to validate the text of the standard.

A1.3 Terminology

A1.3.1 Consumers and new manufacturers may not be familiar with the technological language used within the text. This section also provides definitions for new terms created for this standard.

A1.4 Cover Classifications and Minimum Qualification Criteria

A1.4.1 By defining both the level of safety afforded and standard requirements to be satisfied, manufacturer and consumer will be able to define their needs and properly interpret

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the standard. This section also allows manufacturers to research and develop new technology which when applied could change their designation.

A1.5 Materials and Manufacture

A1.5.1 Varying lead times for material availability restrict or delay immediate compliance with this standard.

A1.6 Performance Requirements For Safety Covers

A1.6.1 Specified load factors represent the 95th percentile for a child under the age of five as well as one male adult and one female adult.

A1.6.2 If one child should gain access to the surface of the cover, another child in the area of the pool should not face increased risk.

A1.6.3 Recognizing that some residual water will remain after the surface water is removed, the test has been devised to ensure that the level can be maintained below that deemed substantially hazardous to a child of three based on data received from the Consumer Product Safety Commission.

A1.6.4 Openings in the major component or horizontal openings between the cover and solid structure of the pool area should remain small enough to prevent the head of a small child from gaining entrance. The head breadth for a 5th percentile of a 7 month old is about 4.5 in. The smallest mobile child would be about 7 months old since at this age 50 % of children can creep on hands and knees.

A1.7 Minimum Label Requirements For All Covers For Swimming Pools, Spas, and Hot Tubs

A1.7.1 Labeling on the product allows for transfer of the information to second owners and temporary users.

A1.7.2 The combination of Signal Word, Safety Alert Symbol and Word Message provides a higher level of warning than any single effort.

A1.7.3 An effort is being made nationally to make consistent the colors used to alert consumers to potential hazards.

A1.7.4 Contrast of colors between letter colors and labels are necessary in order to attract users' attention to label and enable readability.

A1.7.5 Letter size is an important factor in warning legibility so the consumer can recognize and avoid the hazard.

A1.7.6 Style of lettering affects the readability of the warning message.

A1.7.7 Warning labels can be more effective if they allow for reaction time on the part of the consumer.

A1.7.8 Damaged labels would not provide as strong a message as necessary.

A1.7.9 Due to extended life expectancy of cover products, labels cannot be expected to maintain their original appearance.

A1.7.10 Labeling messages and format should be consistent from point of purchase to use and/or application of cover.

A1.7.11 Packaging is, at times, the consumers first exposure to product information. Information contained on the warning label is necessary for making informed choices.

A1.7.12 All labels shall note that the product meets the requirements described in Specification F 1346.

A1.8 General Requirements For Safety Covers

A1.8.1 Installation can be a key factor in the effectiveness of a safety cover whether it is manually or power installed.

A1.8.2 Manufacturer's markings are necessary to allow a continuity for second owners and consumer/manufacturer contact.

A1.8.3 The mechanisms which secure the cover are an integral component that help to defeat a child's entry to the water.

A1.8.4 Openings shall not be so large that the purpose of the cover is defeated.

A1.8.5 Structural integrity is necessary to provide safety.

A1.9 Test Methods For Safety Covers

A1.9.1 The rescue operation may require two adults and the cover shall support the total combined weight to avoid possible injury to those in the rescue attempt. The 95th percentile is represented by the 225-lb male, 210-lb female and 50-lb child.

A1.9.2 This test was devised to avoid an opening large enough for one child or another child to fall between the edge of the cover and the edge of the pool when one child of 50 lb is already on the cover.

A1.9.3 Recognizing that some residual water remains after the surface water is removed, this test is devised to ensure that the level is maintained below a level deemed substantially hazardous to a child under three years of age.

A1.9.4 No opening shall exist in the cover or at any point that the cover joins the surface of the pool structure or deck area (which would allow a small child's head to gain access to the water or become entrapped). The head breadth for a 5th percentile 7 month old is about 4.5 in.

A1.10 Operating Control, Safety Covers

A1.10.1 Operator controlled momentary contact type switches afford greater control in the event of an emergency.

A1.10.2 Should a child enter the water during the closure process, the cover shall be able to reverse without total closure.

A1.10.3 It is important in the case of an electrical installation to protect children and all swimmers from the possibility of electrocution, which is the purpose of Article 680-26 of the National Electrical Code.

A1.10.4 Operator observation of the pool during the closing process is necessary to ensure that another person does not enter the water during the process. Additionally, the location of the activating device or the ability to render it inactive is necessary to avoid unauthorized opening of the cover.

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