

Town of Middlebury, Vermont
Ordinance For The Regulation of Swimming Pools

Pursuant to the authority vested in it under 24 V.S.A. § 2291(13), (14), and (15) and Section 104(2) and (4) of the Middlebury Town Charter, the Board of Selectmen of the Town of Middlebury hereby adopts the following Ordinance.

Article I – Purpose:

The purpose of this Ordinance is to ensure that swimming pools are used and enjoyed in a responsible manner that protects the health, safety and well-being of all residents, guests and visitors within the Town of Middlebury.

Article II – Designation as Civil Ordinance:

This Ordinance shall be designated as a civil ordinance.

Article III – Applicability:

Section 301. This Ordinance shall apply to all swimming pools located within the designated areas of the Town of Middlebury other than those swimming pools specifically exempted by a provision of this Ordinance.

Section 302. For purposes of this Ordinance, the "designated areas" of the Town of Middlebury are all areas defined as the Medium Density Residential (MDR) and High Density Residential (HDR) zoning districts on the Town of Middlebury Land Use Districts map dated May 2005, attached as Exhibit A and incorporated herein by reference. The designated areas shall not be affected by subsequent changes to the Town of Middlebury Land Use Districts Map or the Middlebury Zoning Regulations.

Section 303. For purposes of this Ordinance, a "swimming pool" is defined as any receptacle for water, other than one that is entirely enclosed by roofs and walls within a home or other structure, that:

- a. is used or intended to be used for the purpose of immersion or partial immersion of human beings for swimming, bathing or diving;
- b. is constructed of concrete, mortar, steel, fiberglass, plastic, wood or other permanent manufactured material;
- c. is permanently affixed to the ground or to a structure; and

- d. is capable of being filled, at any point, to a depth of 24 or more inches.

Section 304. A swimming pool that is under construction shall not be subject to this Ordinance until construction is completed or until it fills with water to a depth of 24 or more inches, whichever occurs first.

Section 305. Any swimming pool whose use for swimming, bathing or diving has been discontinued or abandoned shall remain subject to this Ordinance unless filled to the surface with earth or other similar material.

Section 306. This Ordinance shall not apply to any swimming pool owned by the Town of Middlebury or by any public or private educational institution.

Section 307. This Ordinance shall not apply to any swimming pool which has a setback distance from the edge of the owner's property of at least 300 feet in every direction. For purposes of this section, the setback distance shall be measured by a straight line from the edge of the swimming pool to the boundary line of the nearest neighboring lot or Town Highway right-of-way. The owner of a swimming pool who seeks to rely on the exemption in this Section shall have the burden of establishing that the setback distance is at least 300 feet.

Article IV – Swimming Pool Standards:

Section 401. Unless it is equipped with a safety cover meeting the requirements of Section 404 below, every swimming pool shall be completely enclosed by a wall, fence, barrier or other substantial structure not less than 4 feet in height as measured on the outside of the enclosure. No openings other than doors and gates with any dimensions greater than 4 inches shall be permitted therein, except that picket fences may be erected or maintained having horizontal spacing between pickets of not more than 4 inches.

Section 402. All doors or gates in the pool enclosures required by Section 401 above shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping, such doors or gates securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings forming any part of the enclosure here and above required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure shall be located at least 4 feet above the ground or otherwise equally inaccessible to small children.

Section 403. The vertical walls of an on-ground or above-ground pool structure shall satisfy the enclosure requirement of Section 401 above, provided that such walls comply with all standards of Section 401 (including but not limited to the 4-foot height requirement), and subject to the further requirement that if access is provided by a ladder, steps, or similar means, the means of access shall either be surrounded by an enclosure meeting the standards of Section 401 or be capable of being secured, locked, or removed to prevent access.

Section 404. A swimming pool without an enclosure meeting the standards of Section 401 above shall nevertheless be deemed to comply with this Ordinance if it is equipped with a cover which complies with the standards set forth in ASTM F 1346-91.

Article V – Violations and Enforcement:

Section 501. It shall be a violation of this Ordinance for any landowner to own, maintain, use or operate a swimming pool on his or her property that does not comply with the standards set forth in Article IV of this Ordinance, unless the swimming pool is specifically exempted by a provision of this Ordinance.

Section 502. Any landowner who violates this Ordinance shall be liable for a fine of no more than one hundred dollars (\$100.00) for a first offense, no more than two hundred fifty dollars (\$250.00) for a second offense, and no more than five hundred dollars (\$500.00) for each third or subsequent offense. After receiving notice of a first offense, a landowner shall have two (2) weeks to remedy the violation without an additional fine being imposed. If the violation is not remedied within the 2-week period, each subsequent week that the violation continues shall constitute a separate offense.

Section 503. Any violation of this Ordinance shall be enforced as a civil ordinance violation pursuant to 24 V.S.A. § 1974a, as such statute may be amended from time to time. The Town Zoning Administrative Officer shall sign the Complaints for violations of this Ordinance.

Article VI – Effective Dates:

Section 601. With respect to any swimming pool that is complete and in existence on July 8, 2008, the provisions of this Ordinance shall take effect on June 1, 2009.

Section 602. With respect to any swimming pool constructed or installed after July 8, 2008, the provisions of this Ordinance shall take effect on November 24, 2008. Adopted October 14, 2008.