

VILLAGE COUNCIL OF WAKEMAN, OHIO
ORDINANCE NO.: 2022-O-13

AN ORDINANCE AMENDING SECTION 1127.02(b)(7) OF THE WAKEMAN MUNICIPAL CODIFIED ZONING ORDINANCE REGARDING PRIVATE SWIMMING POOLS AND PROVIDING FOR SWIMMING POOL SAFETY COVERS WITH PERMIT AND SIDEWALL HEIGHT.

WHEREAS, the Village has enacted Part Eleven – Planning and Zoning Code codified in Sections 1101 – 1137 of the Wakeman Municipal Codified Code; and

WHEREAS, within Part Eleven, the village enacted Title Three – Zoning Ordinance contained in Sections 1121-1137; and

WHEREAS, Title Three, provides General Regulations established in Chapter 1127; and

WHEREAS, Section 1127.07 establishes Supplemental Regulations; and

WHEREAS, Section 1127.07(b)(7) provides Additional Yard and Buffering Requirements for Private Swimming Pools; and

WHEREAS, the Village Administrator has asked the village to consider amending the Zoning Ordinance to provide for swimming pool safety covers; and

WHEREAS, Chapter, 1129, Section 1129.01 provides that Village Council may, from time to time, amend by ordinance regulations set forth in the Zoning Ordinance and establishes an amendment process; and

1129.01 AMENDMENTS.

(a) The Village Council may, from time to time, amend by ordinance the number, shape or area of districts established on the zoning map or regulations set forth in this Zoning Ordinance; but no such amendment shall become effective unless the ordinance proposing the amendment shall first be submitted in writing by the Fiscal Officer to the Village Planning Commission for approval, disapproval or recommended modifications and the commission shall have been allowed a reasonable time, not less than 30 days, and not more than 45 days, for consideration and report. The Council shall hold a public hearing before the adoption of the proposed amendment. Any person or persons desiring an amendment of the zoning map shall accompany the petition for such amendment of the ordinance introduced for this purpose, with a statement giving the names and addresses of the owners of all properties within 500 feet of any part of the property, the zoning of which would be changed by the proposed amendment if enacted. At least 30 days notice of such amendment, and of the time and place of the hearing thereon shall be given to such owners. The notice shall include a statement that opportunity will be afforded to any person interested to be heard. All applications for a zoning change shall include:

- (1) Evidence that the existing zoning ordinance is unreasonable with respect to the particular property, and it deprives the property owner of his lawful and reasonable use of the land; and/or*
- (2) Evidence that the proposed amendment would materialize in an equal or better zoning ordinance than that existing.*
- (3) For purposes of this Zoning Ordinance, a limitation upon financial gain from the land in question shall not constitute unreasonable zoning.*

(b) Any person or persons desiring an amendment of the zoning map shall pay all costs incurred by the Planning Commission and the village in connection with the application for amendment including, but not limited to legal fees, costs of notices, advertising, and secretarial charges. As described in Section 1133.07, any application for amendment shall be accompanied by a non-refundable deposit in an amount specified by the village in a Council Resolution to cover such costs.

(c) Any person or persons desiring an amendment of the zoning map or text of the zoning ordinance whose application is denied by Village Council and fails to exhaust any other legal remedies that may be available to that person or persons, shall be barred from making application for the same amendment for the period of one year, unless the application contains substantial changes in the use of real property at issue and/or the scope of the proposed amendment. (Ord. 2000-0-03. Passed

WHEREAS, the zoning ordinance amendment process requires that no such amendment shall become effective unless the ordinance proposing the amendment shall first be submitted in writing by the Fiscal Officer to the Village PLANNING COMMISSION for approval, disapproval or recommended modifications (1129.0(a)); and

WHEREAS, the zoning ordinance amendment process further requires that Council shall hold a PUBLIC HEARING before the adoption of any proposed zoning amendment [1129.01(a)]; and

WHEREAS, this Ordinance was submitted in writing by the FISCAL OFFICER to the Village PLANNING COMMISSION on July 14, 2022; and

WHEREAS, the Village PLANNING COMMISSION received this Ordinance from the Fiscal Officer and meet in a public meeting on August 22, 2022 and has reported back to Council; and

WHEREAS Council held a PUBLIC HEARING regarding this zoning amendment contained herein on September 12, 2022; and

THEREFORE, BE IT ORDAINED, BY THE LEGISLATIVE AUTHORITY OF THE VILLAGE OF WAKEMAN, STATE OF OHIO: (RC 731.18)

SECTION 1. That Section 1127.02(b)(7) of the Wakeman Codified Municipal Zoning Ordinance is hereby amended as follows:

(b)(7) Private swimming pools.

A. For the purpose of this section, A a private swimming pool shall be is defined as any pool, pond, lake or open tank where swimming is normally permitted, not located within a completely enclosed building, and containing or, normally capable of containing water, to a depth of at any point greater than 1 ½ feet and having a surface area of 200 square feet or more.

B. No such private swimming pool shall be allowed in any Agricultural or Residential District except as an accessory use and unless it complies with the following conditions and requirements:

i A. The private swimming pool is intended for the use of the residents and their guests ~~occupants~~ of the property on which the pool is located; and

ii B. The private swimming pool and any accessory structures such as walks, paved areas, and fences shall not be located closer than 15 feet to any property line and shall be a minimum of 10 feet from the principal building; and

iii C. FENCING. Except as provided in Section (C) and (D) herein, The any in-ground or above ground private swimming pool, or the entire property on which it is located shall be so walled or fenced so

as to prevent uncontrolled access from the street or adjacent properties. Said fence or wall shall not be less than four feet in height and maintained in good condition, with a gate and lock. ~~Such walls or fences are similarly required regardless of whether the pool is an above-ground pool.~~

C. SWIMMING POOL SAFETY COVERS WITH PERMIT. *A swimming pool safety cover may be installed as an alternative to any walls or fencing required herein, only upon the issuance of a zoning permit to be issued only after the inspection and determination that all of the following apply:*

- i. Application and permit fee shall be submitted prior to installation payable to the Administrator or Clerk-Treasurer/Fiscal Officer.
Failure to obtain a permit and pay the required fee prior to installation of a swimming pool safety cover, shall result in a penalty of twice (2x) the original permit fee.
- ii. Cover shall be capable of being securely fastened and locked
- iii. Cover shall be of sufficient strength to support at least 435 pounds and shall be constructed so as to prevent access at all times to such pool when not in use.
- iv. Cover shall be constructed as mesh, solid, or automatic.

D. SIDEWALL HEIGHT. *Freestanding above-ground private swimming pools with sidewalls not less than forty-eight (48") inches in height from the ground, may do without additional walls or fencing required herein, insofar as the sidewalls of the pool itself constitutes a barrier, equal to a fence. Pool ladders used to enter the pool shall be removed or locked when pool not in use.*

SECTION 2. CODIFICATION. That upon adoption, the Council Clerk is hereby instructed and directed to submit this legislation for codification.

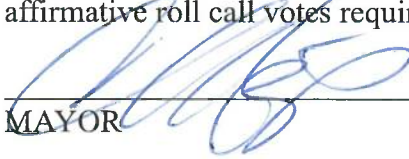
SECTION 3. PUBLIC MEETING. That it is found and determined that all formal action of this public body concerning or relating to the passage of this Resolution/Ordinance were adopted in a public meeting open to the public at all times, and that all deliberations of the public body and any of its committees that resulted in such formal action, were in public meetings open to the public, in compliance with all legal requirements including all lawful ordinances and any applicable provisions of section 121.22 of the Ohio Revised Code.

WHEREFORE, this legislation shall be in full force and effect from and after the earliest period allowed by law.

PASSED AND ADOPTED on this 14 day of November, 2022.

AUTHENTICATION and ATTESTATION
(RC 731.20)

We hereby attest and affirm that the foregoing Ordinance/Resolution received the necessary affirmative roll call votes required for passage by R.C. 731.17.


MAYOR


FISCAL OFFICER

Vote on the passage was taken by yeas and nays and entered upon the journal as follows R.C. 731.17(A)(3):

YEAS: 4 NAYS: 1 ABSTAIN: 0

First Reading: September 12, 2022
Second Reading: October 10, 2022 (may be dispensed by a vote of at least three-fourths of members. R.C. 731.17(A)(2))
Third Reading: November 14, 2022 (may be dispensed by a vote of at least three-fourths of members. R.C. 731.17(A)(2))


PREPARED BY AND APPROVED AS TO FORM [See also RC 731.21(B)]:

SP (LH)
VILLAGE SOLICITOR, Steve Palmer

CERTIFICATE OF POSTING
(RC 731.25)

I hereby certify that pursuant to R.C. 731.25, a succinct summary of the above legislation was posted in not less than five of the most public places in the municipal corporation as determined by the legislative authority [see Wakeman Code 123.01] for a period of not less than fifteen days prior to the effective date at the following locations:

- 1) Wakeman Public Library, 18 East Abbott Street; and
- 2) Electronically online at official Village website; and
- 3) Wakeman Post Office, 17 West Main Street; and
- 4) Village of Wakeman Municipal Building, 59 Hyde Street; and
- 5) Mickey Mart, 52 West Main Street.


FISCAL OFFICER/COUNCIL CLERK