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**AGENDA ITEM
LITTLE FALLS CITY COUNCIL**

Special (Work Session) Agenda: _____

Consent Agenda: _____

Regular Agenda: X

Meeting Date: July 6, 2015

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TITLE OF THE ITEM FOR CONSIDERATION: Requests for modification of fencing requirement for private swimming pools, as per Section 5.40.D of the City Code.

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BACKGROUND: Two landowners have recently requested permits for above-ground swimming pools that would not have the minimum 4 foot tall fencing around all sides as required in Section 5.40 of the City Code. They are requesting that the Council modify the requirement, as allowed in Section 5.40.D, so that the swimming pool walls at least 4 feet in height would be considered the equivalent amount of protection as the normally required four (4) foot tall fence.

The landowners applying for the change are located at 511 4th Street SW and 17764 Carter Lane.

511 4th Street SW: The landowners have a free-standing, above-ground swimming pool that is located in the corner of their yard and has existing 4 foot fencing around two sides. The remaining sides have minimum 4 foot tall walls that they are proposing be approved as protection equivalent to a 4 foot tall fence. Access to the pool would be by a removable ladder.

17764 Carter Lane: The landowners are proposing to install an above-ground swimming pool that would have an open deck attached to one side, which would serve as the access to the pool. The remaining sides would have 52" tall walls (4'4") that they are proposing be approved as protection at least as equivalent to a 4 foot tall fence. The deck attached to the one side of the pool would have fencing at least 3 feet in height.

Section 5.40.D of the City Code states:

5.40: SWIMMING POOL MAINTENANCE REGULATIONS:

A. Control:

1. A "swimming pool" shall, for the purpose of this section, be construed to mean any pool, tank, depression or excavation, or other structure which shall cause the retaining of water over a greater depth than eighteen inches (18"), and having a larger plane surface of water greater than fifty (50) square feet, and which shall be designed or used for swimming, dipping or immersion purposes by men, women or children.
5. Every swimming pool shall be completely enclosed with fencing of a height of not less than four feet (4'), with openings, holes or gaps therein no larger than four inches (4") in any dimension, except for doors or gates; provided, however, that if a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches (4"); and provided, further, that a dwelling house or an accessory building may be used as a part

of such enclosure. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device designed to keep, and capable of keeping, such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming a part of the enclosure hereinbefore required need not be so equipped. All gates shall be self-closing and self-latching, and equipped with latches at the top of gates or otherwise inaccessible to small children.

D. Modifications:

1. The council may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the degree of protection is not reduced thereby.
2. The council may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the fence, gate and latch described herein.

Previous versions of the Minnesota Residential Building Code had permitting requirements for private swimming pools. The permitting requirement (for building code) has now been eliminated provided that the pool meets the requirements in the International Residential Code, which requires, among other things, 48” tall barriers, self-latching gates and removable or lockable ladders, but does allow for the side walls of an above-ground pool to serve as an equivalent barrier.

ACTION REQUEST: That the City Council approves the modification of the normal requirement for a minimum 48” tall fence around a private swimming pool for the properties at 511 4th Street SW and 17764 Carter Lane, provided that:

1. The structural wall of the above-ground pools must be at least 48” in height above the ground surface;
2. Any ladders that allow entry and exit from the pool shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a fence that is at least 48” in height above the ground surface; and
3. Any areas of the pool that are accessible from a deck or other structure or object less than 48” below the top of the pool structure shall have a fence or other barrier of at least 48” in height to prevent access; and
4. Any gates or doors through a required fence or barrier shall open outward away from the pool and shall be self-closing and have a self-latching device.

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FISCAL IMPLICATIONS: None

BUDGETED: YES _____
 NO _____

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DEPARTMENT/COMMITTEE:

STAFF PERSON REQUESTING: Ben Oleson, Zoning Administrator
DATE: June 30, 2015