

## ORDINANCE No. 66X

### AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON REPEALING AND RE-ENACTING CHAPTER 8.28 OF THE ATHERTON MUNICIPAL CODE

**WHEREAS**, the Town of Atherton ("Town") has adopted a Swimming Pool Fence Requirements Ordinance ("Ordinance") to require swilling pool enclosures for the protection of children from drowning or near drowning; and,

**WHEREAS**, the Ordinance currently requires all newly constructed pools with a depth of more than 24 inches be surrounded by a fence or wall six feet high; and,

**WHEREAS**, the State Legislature passed the Swimming Pool Safety Act (Health and Safety Code § 115920 et seq.) to regulate safety standards for swimming pools, including swimming pool enclosure requirements; and,

**WHEREAS**, the Town finds the requirements of the Swimming Pool Safety Act more flexible for property owners while still comprehensive enough to protect the health and safety of its citizens; and,

**WHEREAS**, the Town wishes to revise the Ordinance to be consistent with state law;

The City Council of the Town of Atherton does hereby ordain as follows:

#### **Section 1. PURPOSE AND AUTHORITY**

The purpose of this amendment is to repeal and re-enact Chapter 8.28, related to the Town's Swimming Pool Fence Requirements Ordinance to make it consistent with state law.

#### **Section 2. REPEAL AND REENACTMENT OF ATHERTON MUNICIPAL CODE CHAPTER 8.28**

Chapter 8.28 is hereby deleted and re-enacted to read as follows:

#### **Chapter 8.28 SWIMMING POOL SAFETY**

##### Sections:

**8.28.010 Purpose.**

**8.28.020 Definitions.**

**8.28.030 Safety Requirements for Private Single-Family Home Pools. .**

**8.28.040 Safety Requirements for Public Pools.**

##### **8.28.010 Purpose.**

The purpose of this chapter is to regulate swimming pools consistent with state law (California Health and Safety Code Section 115920 et seq. and California Health and Safety Code Section 116025 et seq.). Implementation of this chapter is intended to protect children from drowning or near drowning.

### **8.28.020 Definitions.**

A. "Swimming pool" or "pool" means any structure intended for swimming or recreational bathing that contains water over 18 inches deep located at a private single-family residence. "Swimming pool" includes in-ground and above-ground structures and includes, but is not limited to, hot tubs, spas, portable spas, and nonportable wading pools. A swimming pool for purposes of this Chapter does not include any of the following: a public swimming pool, a hot tub or spa with locking safety covers that comply with the American Society for Testing and Materials (ASTM F1346), a pool at an apartment complex, or any residential setting other than a single-family home.

B. "Public swimming pool" means an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, or nonportable wading pool, that is any of the following: operated for the use of the general public with or without charge; open exclusively to members of an organization and their guests, residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility; or located on the premises of an athletic club, or public or private school. Public swimming pool does not include a swimming pool located on the grounds of a private single-family home.

### **8.28.030 Safety Requirements for Private Single-Family Home Pools.**

Any swimming pool or spa at a private single-family home must comply with Article 2.5, Chapter 5, Division 104 of the Health and Safety Code, as amended. **8.28.040 Requirements for Public Pools.**

Any public swimming pool must comply with Article 5, Chapter 5, Division 104 of the Health and Safety Code, as amended.

### **Section 3. SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. To the extent that prior Town ordinances governed any portion of this Ordinance held invalid, such prior Town ordinances shall again become effective if any portion of this Ordinance is held invalid.

### **Section 4: EFFECTIVE DATE**

This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced on the \_\_\_\_ day of \_\_\_\_\_, 2024.

Passed and adopted as an ordinance of the City Council of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2024 by the following vote:

Ayes:

Noes:

Abstentions:

\_\_\_\_\_

Mayor Hawkins-Manuelian

ATTEST:

\_\_\_\_\_  
Anthony Suber, City Clerk/ACM