

ORDINANCE NO. 996

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER AMENDING TITLE 8 (HEALTH AND SAFETY) OF THE LANCASTER MUNICIPAL CODE BY ADDING CHAPTER 8.29 (“POOL MAINTENANCE”) RELATING TO SWIMMING POOL MAINTENANCE

WHEREAS, the City Council of the City of Lancaster finds and declares its commitment to sustain and protect the health, safety and welfare of the citizens of the City of Lancaster; and

WHEREAS, the City Council further finds and declares that stagnant bodies of water create breeding grounds for mosquitoes, which are capable of transmitting the causative agents of human diseases, including but not limited to West Nile Virus, encephalitis and malaria; and

WHEREAS, the City Council further finds and declares that inadequately maintained swimming pools are a significant source of stagnant bodies of water within the City of Lancaster; and

WHEREAS, the City Council believes that, working in conjunction with the Antelope Valley Mosquito and Vector Control District, the City of Lancaster can develop methods to quickly identify and abate inadequately maintained swimming pools; and

WHEREAS, the City Council believes that an effective way to sustain and protect the health, safety and welfare of the citizens of the City of Lancaster is to adopt regulations for the proper maintenance of swimming pools located on properties within the City of Lancaster;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Lancaster Municipal Code Title 8 is hereby amended by adding Chapter 8.29, as set forth in Attachment A attached hereto.

Section 2. That the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the _____ day of _____, 2013, and placed upon its second reading and adopted at a regular meeting of the City Council on the _____ day of _____, 2013, by the vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 996, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

Attachment A

Chapter 8.29 Pool Maintenance

8.29.010 Title.

This chapter shall be known as the city of Lancaster's Pool Maintenance ordinance.

8.29.020 Findings and Purpose.

The City Council finds and declares as follows:

- A. Stagnant sources of water create breeding grounds for mosquitoes, which are capable of transmitting the causative agents of human diseases.
- B. Inadequately maintained swimming pools are a significant source of stagnant or standing bodies of water within the city of Lancaster
- C. It is the purpose and intent of this chapter to protect public health, safety and welfare by developing regulations that will promote the maintenance of swimming pools in the city in a healthful, sanitary and safe condition.
- D. It is further the purpose and intent of this chapter to establish administrative procedures to cause the swift abatement of inadequately maintained swimming pools.

8.29.030 Definitions.

1. "City" means the city of Lancaster.
2. "Code" means the Lancaster Municipal Code, and laws incorporated therein by reference, as well as any adopted and uncodified ordinances.
2. "City Manager" means the Lancaster City Manager and/or his or her authorized designee(s).
3. "Owner" means and includes any person having legal title to any real property in the city, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor's Office. Owner also includes any Person with powers of attorney, executors of estates, trustees, or who are court appointed administrators, conservators, guardians or receivers.
4. "Person," for purposes of this chapter, means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, assigns and any public entity or agency that acts as an Owner in the City.
4. "Pool" means any swimming pool, whether above-ground or in-ground. For purposes of this chapter, "Pool" also includes any above-ground or in-ground hot tub or spa, ornamental pond, fountain, bird bath, or any other man-made structure or fixture capable of collecting water.
5. "Property" or "Premises" means any privately-owned real property in the city of Lancaster on which a Pool, as defined in this chapter, is present.

6. “Responsible Person” means any Person, whether an Owner as defined in this chapter, or a Person who leases, rents, occupies or has charge, control or possession of property, who allows, causes, creates, maintains, suffers or permits the presence of a Pool that is not maintained in compliance with the provisions of this chapter, by any act or the omission of an act or duty. The actions or inactions of a Responsible Person’s agent, employee, representative or contractor may be attributed to that Responsible Person.

8.29.040 Enforcement; Administration.

1. The City Manager is hereby authorized and directed to enforce the provisions of this chapter.

2. The City Manager is authorized to designate certain City personnel to assist in the enforcement of this chapter. The designees shall have such enforcement powers as are delegated by the City Manager.

3. The City Manager is authorized to promulgate rules, regulations, policies and procedures to implement the provisions of this chapter, including, but not limited to, administrative policies and procedures for the City’s use, independently and/or in conjunction with the Antelope Valley Mosquito & Vector Control District, to investigate, identify and abate Pools that are not maintained in compliance with the provisions of this chapter.

8.29.050 Inspections; Right of Entry.

1. The City Manager is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter. Authorized inspections shall be limited to exterior portions of Premises.

2. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the City Manager has reasonable cause to believe that there exists on a Premises a Pool that is not maintained in compliance with the provisions of this chapter, the City Manager may enter the Premises at reasonable times to inspect.

A. If the Property is occupied, the City Manager shall, before entering the Premises, present proper credentials and request entry, explaining his or her reasons for the inspection.

B. If the Property is unoccupied, the City Manager shall first make a reasonable effort to locate the Owner or other Responsible Person, as defined in this chapter, and request entry, explaining his or her reasons for the inspection.

C. If consent to entry is refused or otherwise cannot be obtained, the City Manager shall have recourse to every remedy provided by law to secure lawful entry and inspect the Premises, including, but not limited to, securing an inspection warrant pursuant to California Code of Civil Procedure Sections 1822.50 through 1822.57.

D. Notwithstanding the foregoing, if the City Manager has reasonable cause to believe that a Pool is in such a condition as to pose an imminent hazard to public health and safety, the City Manager shall have the right to immediately enter and inspect the Premises, and may use any reasonable means required to effectuate the entry and inspection.

8.29.060 Pool Maintenance Required; Maintenance Standards; Owners' Responsibility.

1. Owners, as defined in this chapter, shall, at all times, regularly and continuously maintain a Pool in one of the following manners:

A. The Pool shall be filtered and treated so the water remains clear and circulating;

B. The Pool shall be fully drained and kept dry.

2. Any Pool that is not maintained in conformance with subdivision (1) of this section shall be deemed an "unmaintained Pool."

3. Notwithstanding any provision of a lease or rental agreement, or other occupancy contract or agreement, which assigns Pool maintenance duties to a lessee, tenant or occupant, an Owner shall be deemed responsible for the regular and continuous maintenance of his or her Pool in accordance with subdivision (1) of this section.

8.29.070 Violation; Public Nuisance; Penalty.

1. The city council finds and declares that it is unlawful for any Responsible Person, as defined in this chapter, to allow, cause, create, suffer or permit the presence of an unmaintained Pool on his or her Property.

2. The city council finds and declares that an unmaintained Pool constitutes a public nuisance subject to abatement.

3. Any person violating the provisions of this chapter is subject to the penalty provisions set forth in chapter 1.12 of this code.

8.29.080 Abatement; Emergency Abatement of an Imminently Hazardous Unmaintained Pool.

1. The City Manager may cause an unmaintained Pool to be abated, in accordance with the procedures set forth in chapter 8.28 of this code.

2. The City Manager may utilize the procedures set forth in section 8.28.170 of this code for the emergency abatement of an unmaintained Pool if it is determined that the Pool creates an imminent hazard to public health, safety or welfare. Evidence of an imminently hazardous Pool shall include, but not be limited to, the presence of mosquitoes, mosquito larvae, bacterial growth or algae, or water which is unclear, murky, clouded, green or discolored.

8.29.090 Fees; Costs.

1. The City shall be entitled to recover, and collect, its costs and fees for the abatement of an unmaintained Pool, in accordance with and as provided in chapter 8.28 of this code.

2. A Responsible Person who causes, allows, suffers or permits the presence of an unmaintained Pool shall be charged fees by the City to defray its costs of code enforcement actions, which shall be recoverable in conjunction with any administrative, civil, equitable or criminal action to abate or cause the abatement of an unmaintained Pool, in accordance with and as provided in chapter 8.28 of this code.

3. A prevailing party in any administrative, civil or equitable judicial action to abate or cause the abatement of an unmaintained Pool, or in any appeal or other judicial action arising therefrom, may recover reasonable attorney's fees, expert witness fees and costs, in accordance with and as provided in section 8.28.250 of this code.

8.29.100 Administrative Citations.

1. The City Manager may issue an administrative citation to a Responsible Person who causes, allows, suffers or permits the presence of an unmaintained Pool. Issuance of a citation shall be in accordance with and as provided in chapter 1.16 of this code.

2. Notwithstanding any other provisions in this code, the penalty amount of an administrative citation issued for a violation of this chapter shall be assessed as follows:

- A. For the first administrative citation, the penalty shall be \$500.00.
- B. For the second administrative citation, the penalty shall be \$1,000.00.
- C. For the third administrative citation, the penalty shall be \$1,500.00.

8.29.100 Remedies Not Exclusive.

Any administrative citation pursuant to this chapter shall not prejudice or adversely affect any other civil, administrative or criminal action that may be brought to abate an unmaintained Pool or to seek compensation for damages suffered. A civil or criminal action may be brought concurrently with any other process regarding the same violation.

8.29.110 Applicability of Other Laws.

This chapter is not the exclusive regulation of Pool maintenance or penalty for allowing, causing, creating or permitting the presence of an unmaintained Pool. It supplements, and is in addition to, other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, Antelope Valley Mosquito & Vector Control District, state or any other legal entity or agency having jurisdiction, including but not limited to the provisions of Division 3 of the Health and Safety Code (Section 2000, et seq.), as well as administrative regulations adopted pursuant to those laws.

8.29.120 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter. The city council declares that it would have adopted this chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.