

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING SECTION 92.43 “PERMIT REQUIRED”, SECTION 92.44 “REVIEW OF PLANS AND REQUIREMENTS”, SECTION 92.45 “INSPECTIONS”, AND SECTION 92.49 “PUBLIC POOL/SPA MANAGER CERTIFICATION” OF SUBSECTION “PUBLIC SWIMMING POOL/SPA” OF CHAPTER 92 “HEALTH AND SANITATION” OF TITLE IX “GENERAL REGULATIONS,” OF THE CODE OF MANSFIELD, TEXAS; REVISING COMPLIANCE STANDARDS FOR POOLS/SPAS AND INTERACTIVE WATER FEATURES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Mansfield, Texas (the “City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City has previously adopted regulations regarding public swimming pools and spas, including interactive water features; and,

WHEREAS, the City Council has determined that the amendment outlined herein is in the best interest of the health, safety, and general welfare of the citizens of the City of Mansfield and the public, the City desires to revise the fees and regulations applicable to such facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THAT:

SECTION 1.

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2.

Subsections (C) and (F) of Section 92.43 “Permit required,” of Chapter 92 “Health and Sanitation,” of Title IX “General Regulations,” of the Code of Mansfield, Texas, is hereby amended to read as follows:

“§ 92.43 PERMIT REQUIRED.

(C) Nontransferable (change of ownership). Permits issued under the provisions of this chapter are not transferable. Upon change of ownership of a business, the new business owner will be required to meet current standards as defined in city ordinances and state law before a permit will be issued. The new owner shall notify the regulatory authority within ten days after assuming

ownership of the pool, spa, or interactive water feature. There will be a change of ownership fees charged in an amount as established in the Master Fee Schedule adopted by City Council, as amended from time to time.

...

(F) Nonpayment. A permit that lapses for nonpayment of the annual permit fee will be reinstated upon payment of the permit fee, except such permits which have lapsed for a period exceeding one month. Such permits shall be reinstated upon payment of the annual permit fee and late fee, as established in the Master Fee Schedule adopted by City Council, as amended from time to time.

SECTION 3.

Section 92.44 "Review of plans and requirements," of Chapter 92 "Health and Sanitation," of Title IX "General Regulations," of the Code of Mansfield, Texas, is hereby amended to read as follows:

"§ 92.44 REVIEW OF PLANS AND REQUIREMENTS.

(A) Submission of plans. Before a public pool's and/or spa's and/or interactive water feature's construction or extensive remodeling begins, the person proposing to construct or remodel shall submit an application to the regulatory authority for review and approval. For purposes of this subchapter, the consideration of extensive remodeling shall be the alteration and/or repair of any structure, building or building system which requires the issuance of a building permit to complete. The application shall include:

(1) The proposed layout and arrangement of mechanical, plumbing, fencing, electrical, construction materials of work areas, the type and model of proposed fixed equipment and facilities and all associated buildings or structures;

(2) The construction or remodeling plans shall be under an engineer's seal, and specifications stating that the proposed construction or remodeling complies with the provisions of this subchapter and indicating the proposed layout, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities;

(3) The date on or after which proposed construction is to begin;

(4) The phone number and address of the entity primarily responsible for constructing the pool, spa, or interactive water feature;

(5) The phone number and address of the entity primarily responsible for operating the pool, spa, or interactive water feature;

(6) Any other additional information necessary for the regulatory authority to verify compliance; and

(7) A payment must be made to the city's Regulatory Compliance Department, Texas, 1200 E. Broad Street, Mansfield, Texas 76063 in the amount established in the Master Fee Schedule adopted by City Council, as amended from time to time.

(B) All new and extensively remodeled public pools or extensively remodeled public pool features will need to have metal fencing that may not contain residential patios or any climbable structure, including furniture, within three feet of the fence and must conform to all current state statutes. All pool yards or spa yards must be completely enclosed on all four sides in a manner which prevents entering from a patio or operable window directly into the pool or spa yard. The

enclosure must conform to Tex. Admin. Code Title 25, § 265.192 and Tex. Health & Safety Code Ch. 757.

(C) All new interactive water features may be constructed in residential real estate development and child care facilities provided that they utilize a pass through system that does not recirculate expended water. A variance to this requirement may be granted by the regulatory authority to facilities with on-site staff primarily responsible for pool and spa operations that can meet the testing requirements of this subchapter.

(D) No work shall begin until the regulatory authority has received the engineer's certificate of preconstruction, conducted a plan review, and has confirmed with the appropriate city departments that a building permit may be issued. Work shall commence and conclude within the time allowed by such permits. Deviations from approved plans shall not be permitted. If work has not commenced within 180 days from the written date approved by the city, the regulatory authority may rescind the permit.

(E) Approval. The regulatory authority shall approve plans and specifications that meet the requirements of these rules. No public pool, spa, or interactive water feature shall be constructed or extensively remodeled except in accordance with plans and specifications approved by the regulatory authority.

(F) Post construction, a licensed professional engineer shall inspect the completed new or renovated pool, spa and/or interactive water feature construction and certify by original signature and engineer's seal that the structure has been installed or remodeled in accordance with Tex. Admin. Code Title 25, Ch. 265, Subch. L, "Public Swimming Pools and Spas," as amended."

SECTION 4.

Subsections (C) and (D) of Section 92.45 "Inspections," of Chapter 92 "Health and Sanitation," of Title IX "General Regulations," of the Code of Mansfield, Texas, is hereby amended to read as follows:

"§ 92.45 INSPECTIONS.

(C) Inspection fees. A required fee, as established in the Master Fee Schedule adopted by City Council, as amended from time to time, shall be paid for preoperational inspections and, thereafter, on an annual basis. Fees shall be paid to the city's Mansfield Regulatory Compliance Department, 1200 E. Broad Street, Mansfield, Texas 76063. Inspection fees shall be based on the number of public pools and/or spas located at a single address.

(D) (1) If a facility is closed for noncompliance of this subchapter more than once during a pool season, or remains closed for a period longer than one month due to noncompliance, a reinspection, along with the payment of the applicable fee established in the Master Fee Schedule adopted by City Council, as amended from time to time, shall be assessed prior to the reopening the facility.

(2) Maintaining the facility in noncompliance shall be considered a violation under this subchapter and the regulatory authority shall have the authority to issue citations for violations of this subchapter and the regulatory authority shall have the authority to issue citations for violations of this subchapter."

SECTION 5.

Subsection (B) of Section 92.49 “Public pool/spa manager certification,” of Chapter 92 “Health and Sanitation,” of Title IX “General Regulations,” of the Code of Mansfield, Texas, is hereby amended to read as follows:

“§ 92.49 PUBLIC POOL/SPA MANAGER CERTIFICATION.

(B) Registration certificate. A registration certificate for a certified pool operator shall be issued by the regulatory authority to any person who submits the required application, pays the required fee as established in the Master Fee Schedule adopted by City Council, as amended from time to time, and provides evidence of being a certified pool operator.”

SECTION 6.

This Ordinance shall be cumulative of all provisions of the ordinances and of the Code of Ordinances, City of Mansfield, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of the other ordinances and such code are hereby repealed.

SECTION 7.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 8.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 10.99 of the Code of Ordinances, City of Mansfield, Texas. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

SECTION 9.

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of Chapter 92 of Title IX of the Code of Ordinances, City of Mansfield, Texas, or any other ordinance regarding the regulation of public swimming pools and spas, including interactive water features, that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 10.

The City Secretary is hereby directed to publish in the official newspaper of the City of Mansfield, the caption and penalty clause of this Ordinance as provided by the City's Charter.

SECTION 11.

This Ordinance shall take effect immediately from and after its passage on first and final reading and the publication of the caption, as the law and charter in such cases provide.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS 28TH DAY OF OCTOBER, 2024.

Michael Evans, Mayor

ATTEST:

Susana Marin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Ashley Dierker, City Attorney