

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 92, "HEALTH AND SANITATION," OF THE CITY OF MANSFIELD CODE OF ORDINANCES, AS AMENDED, BY AMENDING, REVISING, AND MODIFYING THE REGULATIONS FOR PUBLIC POOLS, SPAS, AND INTERACTIVE WATER FEATURES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mansfield 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;

WHEREAS, Chapter 92 of the City of Mansfield Code of Ordinances provides for health and sanitation regulations that were adopted to protect the public health, safety, and welfare; and

WHEREAS, the City Council now desires to amend the health and sanitation regulations by amending the regulations applying to public swimming pools, spas, and interactive water features;

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

SECTION 1.

That Chapter 92, "Health and Sanitation," of the Code of Ordinances of the City of Mansfield, as amended, is hereby amended by amending, revising, and modifying Sections 92.40 through 92.99 to read as follows:

"PUBLIC SWIMMING POOLS/SPAS/INTERACTIVE WATER FEATURES

Sec. 92.40. DESIGNATION OF REGULATORY AUTHORITY.

The city designates the Tarrant County Public Health Department as its regulatory authority for the purpose of insuring minimum standards of environmental health and sanitation within the scope of that department's function.

Sec. 92.41. STATE REGULATIONS AND GUIDELINES.

There is hereby adopted by reference of the V.T.C.A., Health and Safety Code § 341.064; and the Tex. Admin. Code §§ 265.181—265.208, "Standards for Public Pools and Spas," and

Tex. Admin. Code §§ 265.301—265.308 “Public Interactive Water Features and Fountains.” Three certified copies of each shall be kept on file in the office of the City Secretary.

Sec. 92.42. DEFINITIONS.

All definitions in the V.T.C.A., Health and Safety Code Ch. 341 and Title 25, Chapter 265, Subchapter L of the Texas Department of State Health Services regulations, "Standards for Public Pools and Spas," are hereby adopted. In addition, the following definitions shall apply in this chapter:

Certified pool operator means a person who possesses a valid pool operator's certificate from a course approved by the regulatory authority.

City means authorized representatives of the City of Mansfield, which shall include the director and representatives of the Tarrant County Public Health Department.

Director means the Director of the Tarrant County Public Health Department, who shall be an authorized representative of the city with respect to public pool and spa inspections and permitting.

Pool means any manmade permanently installed or non-portable structure, basin, chamber, or tank containing an artificial body of water that is used for swimming, diving, aquatic sports, or other aquatic activity other than a residential pool and that is operated by an owner, lessee, operator, licensee or concessionaire, regardless of whether a fee is charged for use. The pool may be either publicly or privately owned. The term does not include a spa or a decorative fountain that is not used as a pool.

Private residential pool means a pool that is located on private property that is intended for use by one single-family and their invited guests, located on property used for the placement of a single-family residence.

Private residential spa means a spa that is located on private property that is intended for use by one single-family and their invited guests, located on property used for the placement of a single-family residence.

Public interactive water feature and fountain (PIWF) means any indoor or outdoor installation maintained for public recreation that includes water sprays, dancing water jets, waterfalls, duping buckets, or shooting water cannon in various arrays for the purpose of wetting the persons playing in the spray streams.

Regulatory authority means the director and representatives of the Tarrant County Public Health Department.

Spa means a constructed permanent or portable structure that is two feet or more in depth and that has a surface area of 250 square feet or less or a volume of 3,250 gallons or less and that is intended to be used for bathing or other recreational uses and is not drained and refilled after

each use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles, or any combination thereof. A spa does not refer to a business establishment, such as a day spa or a health spa. Industry terminology for a spa includes, but is not limited to, "hydrotherapy pool," "whirlpool," "hot spa," "hot tub," etc. A spa does not include a private residential spa.

Sec. 92.43. PERMIT REQUIRED.

- (a) *Required.* It shall be unlawful for any person to operate a public pool, spa, or interactive water feature in the city without a current and valid pool, spa or interactive water feature permit.
- (b) *Posting.* A valid permit issued to a public swimming pool, spa or interactive water feature shall be posted in public view in a conspicuous place at the permitted facility.
- (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.
- (d) *Multiple permits.* A separate permit shall be required for every public pool, spa, or interactive water feature, except that public pools or spas or interactive water features on a single water filtration system require just one permit.
- (e) *Denial of permit.* A permit may be denied if the regulatory authority, upon inspection, determines that the applicant has failed to comply with approved plans and specifications adopted in accordance with these rules.
- (f) *Inspections for permits.* An inspection shall be required annually to qualify for a permit. A permit is valid for one year from the date of issuance.

Sec. 92.44. REVIEW OF PLANS.

- (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. The application shall include:
 - (1) The construction or remodeling plans, under an engineer's seal, and specifications stating that the proposed construction or remodeling complies with these rules and indicating that the proposed layout, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities;
 - (2) The date on or after which proposed construction is to begin;

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

(4) A check or money order in the amount of \$150.00 payable to Tarrant County, Texas; and

(5) And any necessary additional information necessary to verify compliance.

(b) *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.

Sec. 92.45. INSPECTIONS.

(a) *Preoperational inspections.* The regulatory authority shall inspect a newly constructed or remodeled public pool, spa, or interactive water feature prior to operation to determine compliance with approved plans and specifications and with the requirements of these regulations. Requested inspections must be made a minimum of three working days prior to the desired opening date.

(b) *Inspections.* The regulatory authority shall inspect all public pools, spas, or interactive water features at least once per year. The owner or operator shall request an inspection by permit application providing the pool, spa, or interactive water feature owner's name and address and, if different, the pool or spa operator's name and address.

(c) *Inspection fees.* A fee, as set out, adopted, and defined in the annual budget for the city, shall be required to be paid for preoperational inspections and, thereafter, on an annual basis. Fees shall be paid to Tarrant County Public Health Department at 1101 South Main, Fort Worth, Texas 76104. Inspection fees shall be based on the number of filtration systems located at a single address.

Sec. 92.46. POOL/SPA/INTERACTIVE WATER FEATURE CLOSURES.

(a) A public pool, spa, or interactive water feature shall be closed if any of the following conditions occur:

- (1) Disinfectant level below the minimums set by the Texas Department of State Health Services;
- (2) pH below 7.0;
- (3) Inability to see bottom drain (poor visibility);
- (4) Chlorine levels above eight ppm; or

- (5) Any other imminent health hazards.
- (b) The regulatory authority will immediately post a closed sign and the pool or spa access gate shall be locked until all violations have been corrected.

Sec. 92.47. POOL/SPA/INTERACTIVE WATER FEATURE RECORDS.

Daily records for each permitted public pool, spa, or interactive water feature shall be kept on premises and shall include information pertaining to:

- (1) Disinfectant—Three times per day;
- (2) pH—Three times per day;
- (3) Alkalinity—One time per week;
- (4) Chemicals added—As noted by name, amount and date; and
- (5) Other information needed to ensure the facility's proper operation.

Sec. 92.48. SUSPENSION AND REVOCATION OF PERMIT.

(a) *Notice of suspension.* The regulatory authority may temporarily suspend the permit of a public pool, spa, or interactive water feature for noncompliance with state pool, spa, or interactive water feature standards, by issuing a written notice for suspension. When a permit is suspended, pool, spa, or interactive water feature operations shall immediately cease. The regulatory authority will immediately post a closed sign and the pool, spa, or interactive water feature access gate shall be locked until any and all violations have been corrected.

(b) *Reinstatement of permit after suspension.* Whenever a notice of suspension is issued by the regulatory authority, the holder of the permit or the person in charge will be given an opportunity to correct the violation(s) prior to final revocation of the permit. The regulatory authority may end the suspension any time if the reasons for suspension no longer exist.

(c) *Revocation of permit.* The regulatory authority may, after providing notice of pending revocation and an opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice. Unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten-day period, the revocation of the permit becomes final.

(d) *Service of notices.* A notice provided for in these rules is properly served when it is delivered to the holder of the permit or the person in charge of pool and/or spa and/or interactive

water feature operations, or when it is sent by registered or certified mail, return receipt requested, to the address listed on the permit application. A copy of the notice shall be filed in the records of the regulatory authority.

(e) *Hearings.* The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearings, the regulatory authority shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

(f) *Right of appeal.* Any permit holder who wishes to dispute the decision of a hearing may appeal the decision to the director of the regulatory authority.

(g) *Application after revocation.* Final revocation of a pool and/or spa and/or interactive water feature permit shall not prevent the holder of the revoked permit from making written application for a new permit to the regulatory authority.

(h) *Closed pool, spa, or interactive water feature.* Prior to reopening, the owner or operator shall provide the application and fee required by subsection Sec. 10-157 (a) if a pool or spa:

(1) closes voluntarily at the request of the regulatory authority on more than two occasions in one calendar year; or

(2) closes on court order on more than two occasions in one calendar year.

Sec. 92.49. PUBLIC POOL/SPA MANAGER CERTIFICATION.

(a) *Requirement.* All facilities permitted under this chapter shall have at least one certified pool or spa operator employed to maintain the pool, spa, or interactive water feature.

(b) *Termination of certified pool, spa, or interactive water feature operator.* In the event that a certified pool or spa operator is terminated or transferred, a certified pool or spa operator must be designated within 60 days from the operator's termination or transfer date. This requirement is applicable even if pool, spa, or interactive water feature maintenance operations are contracted to an outside company.

Secs. 92.50—92.98. - RESERVED.

Sec. 92.99. PENALTY.

(a) It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect or refuse to comply with or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) An offense under subsection (a) is a Class C Misdemeanor punishable by a fine of not more than \$2,000 for each offense."

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Mansfield and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Mansfield Code of Ordinances as a whole.

SECTION 4.

That all rights or remedies of the City of Mansfield, Texas, are expressly saved as to any and all violations of the City Code or any amendments thereto regarding public pools, spas, or 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 or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.

Any person, firm, company 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 fined as provided for in this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

The City Secretary of the City of Mansfield is hereby directed to publish the caption and penalty clauses of this ordinance at least once in the official newspaper of the City of Mansfield.

SECTION 8.

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

The first reading approved on the _____ day of _____, 2014.

Second reading approved on the _____ day of _____, 2014.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this ____ day of _____, 2014.

David L. Cook, Mayor

ATTEST:

Vicki Collins, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Allen Taylor, City Attorney