

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING SECTIONS OF CHAPTER 92, "HEALTH AND SANITATION," REGARDING PUBLIC SWIMMING POOLS AND SPAS BY CORRECTLY NAMING AND IDENTIFYING CURRENT REGULATORY AUTHORITY; ADDING AND AMENDING DEFINITIONS; AMENDING REGULATIONS REGARDING PERMITS, REVIEW OF PLANS, INSPECTIONS, AND REQUIREMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR PUBLICATION AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Mansfield ("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 Texas Local Government Code; and,

**WHEREAS**, the City terminated an inspection agreement with Tarrant County, wherein Tarrant County provided health and swimming pool inspection services; and,

**WHEREAS**, the termination of the agreement necessitates updating several sections of the City's Code of Ordinances to reflect this change in inspection entity, in order to provide fair notice to persons needing premises inspections; and,

**WHEREAS**, Chapter 92, Sections 92.40 *et seq.*, involve inspection of swimming pools and spas, and must therefore be updated to reflect the current regulatory authority in the City, and to add and amend definitions, amend regulations regarding permits, review of plans, inspections, and requirements; and,

**WHEREAS**, the City Council believes that it is in the best interests of the public and the City to facilitate the efforts to update the Code of Ordinances of the City to reflect this change by passage of this Ordinance.

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

**SECTION 1.**

All of the declarations and findings contained in the preambles of this Ordinance are made a part hereof and shall be fully-effective as a part of the ordained subject matter of this Ordinance.

**SECTION 2.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.40 "Designation of Regulatory Authority," shall be amended to read as follows:

## § 92.40 DESIGNATION OF REGULATORY AUTHORITY

The city designates the City of Mansfield Regulatory Compliance 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.

### **SECTION 3.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.41 "State Regulations and Guidelines," shall be amended to read as follows:

## § 92.41 STATE REGULATIONS AND GUIDELINES.

There is hereby adopted by reference of the V.T.C.A., Tex. Health and Safety Code § 341.064, as amended; and the Tex. Admin. Code §§ 265.181 through 265.209, "Public Swimming Pools and Spas", as amended, and Tex. Admin. Code §§ 265.301 through 265.308 "Public Interactive Water Features and Fountains," as amended. Three certified copies of each shall be kept on file in the office of the City Secretary

### **SECTION 4.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.42 "Definitions," shall be amended to read as follows:

## § 92.42 DEFINITIONS

All definitions in Title 25, Chapter 265, Subchapter L, "Public Swimming Pools and Spas," of the Texas Administrative Code, as amended, are hereby adopted. In addition, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CERTIFIED POOL OPERATOR.** A person who possesses a valid pool operator's certificate from an accredited program approved by the regulatory authority.

**CERTIFICATE OF REGISTRATION.** A certificate issued by the regulatory authority to any person who submits the required application, remits the registration fee, and provides evidence of being a Certified Pool Operator.

**CITY.** Authorized representatives of the City of Mansfield, which shall include the director and representatives of the City of Mansfield Regulatory Compliance Department.

**DIRECTOR.** The Director of the City of Mansfield Regulatory Compliance Department, who shall be an authorized representative of the city with respect to public pool and spa inspections and permitting.

**POOL.** 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.** 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.** 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).** 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.

**REGISTERED AND CERTIFIED POOL OPERATOR.** A certified pool operator who has registered with the City of Mansfield Regulatory Compliance Department and has received a Certificate of Registration from the Department.

**REGULATORY AUTHORITY.** The director, manager, or representatives of the City of Mansfield Regulatory Compliance Department, or their designees.

**SPA.** 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”, and the like. A SPA does not include a private residential spa.

## **SECTION 5.**

The Code of Ordinances of the City of Mansfield, Title IX “General Regulations,” Chapter 92 “Health and Sanitation,” Section 92.43 “Permit Required,” shall be amended to read as follows:

### **§ 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. There will be a change of ownership fees charged in an amount as set forth in the Department of Regulatory Compliance fee schedule.

(D) Multiple permits. A separate permit shall be required for every public pool, spa, or interactive water feature.

(E) The pool operator's Certificate of Registration shall be displayed in a place readily accessible for inspection by the Regulatory Authority, such as a bulletin board, display case, or other prominent location.

(F) 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.

(G) 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.

## **SECTION 6.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.44 "Review of Plans," shall be 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. 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

these rules 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 check or money order payable to the City of Mansfield, Texas in the amount set forth in the City of Mansfield Regulatory Compliance Department Fee Schedule; and

(B) All new and extensively remodeled public pools or extensively remodeled public pool features will need to have fencing that may not contain residential patios or any climbable structure within three (3) feet of the fence and must conform to all current state statutes.

(C) 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 of Mansfield 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 of Mansfield, the regulatory authority may rescind such advisory.

(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.

(E) Post construction, a licensed professional engineer shall inspect the completed new or renovated pool and/or 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 Title 25, Chapter 265, Subchapter L, "Public Swimming Pools and Spas," of the Texas Administrative Code, as amended.

## **SECTION 7.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.45 "Inspections," shall be amended to read as follows:

§ 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 Regulatory Compliance Department Fee Schedule, shall be required to be paid for preoperational inspections and, thereafter, on an annual basis. Fees shall be paid to City of 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) If a facility is closed for noncompliance of this ordinance more than one time during a pool season, or remains closed for a period longer than one month due to noncompliance, a reinspection fee shall be assessed in accordance with the Department of Regulatory Compliance fee schedule prior to the performance of an inspection conducted for the purpose of reopening the facility.

**SECTION 8.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.46 "Pool/Spa/Interactive Water Feature Closures" and Section 92.47 "Pool/Spa/Interactive Water Feature Records" shall be amended to read as follows:

§ 92.47 POOL/SPA/INTERACTIVE WATER FEATURE CLOSURES AND RECORDS

(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 or a pH or above 7.8;
- (3) Inability to see bottom drain (poor visibility);
- (4) Chlorine levels above eight ppm;

(5) Gates or fencing of the enclosure not in good repair; or

(6) 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.

(C) Daily records for each permitted public pool, spa, or interactive water feature shall be kept on premises, be available upon request by the regulatory authority, 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.

## **SECTION 9.**

The Code of Ordinances of the City of Mansfield, Title IX "General Regulations," Chapter 92 "Health and Sanitation," Section 92.49 "Public Pool/Spa Manager Certification" shall be amended to read as follows:

(A) **REQUIREMENT.** All facilities permitted under this chapter shall have at least one Certified Pool Operator employed and ready to maintain the pool, spa, or interactive water feature.

(B) **CERTIFICATE OF REGISTRATION.** Certificate of Registration for a Certified Pool Operator shall be issued by the regulatory authority to any person who submits the required application, pays the required fee in accordance with the Department of Regulatory Compliance fee schedule, and provides evidence of being a Certified Pool Operator.

(C) **TERMINATION OF CERTIFIED POOL, SPA, OR INTERACTIVE WATER FEATURE OPERATOR.** In the event that a Certified Pool Operator is terminated or transferred, a new Certified Pool 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.

(D) **TERM OF REGISTRATION.** Unless otherwise revoked by the regulatory authority, a Certificate of Registration expires on the same expiration date listed on the approved certification from an accredited program.

(E) **NON-TRANSFERABILITY OF REGISTRATION.** A Certificate of Registration is not transferable.

**POSTING OF CERTIFICATE.** The Certificate of Registration must be posted in a place readily accessible for inspection by the Regulatory Authority, such as a bulletin board, display case, or other prominent location.

(F) **CLASS C AND D POOLS AND SPAS.**

(1) If a Certified Pool Operator is not employed on-site at the public pool and/or spa, the owner or person in control of the pool and/or spa shall post a sign visible from the deck of the pool and/or spa stating the telephone number of the Certified Pool Operator.

(2) The letters in such signs shall be of a minimum height of a one inch and shall be of a color contrasting to their background.

(a) At minimum, such signs shall state: “TO REPORT MECHANICAL, SAFETY, OR WATER QUALITY PROBLEMS WITH THIS FACILITY, CALL {INSERT CONTACT INFORMATION} DURING HOURS OF OPERATION.”

(b) Such signs shall be of a weather-resistant construction and shall be posted where they are readily visible to a reasonably observant person.

(3) A person commits an offense if the person owns or is in control of a swimming pool and/or spa with no Certified Pool Operator employed on-site and fails to post or maintain signs required by this chapter.

**SECTION 10.**

All ordinances of the City in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 11.**

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.



**SECTION 12.**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 13.**

The City Secretary of the City of Mansfield is hereby directed to publish this Ordinance to the extent required by law.

**SECTION 14.**

This Ordinance shall take effect immediately upon and after its passage and the publication of the caption and penalty clause, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF MAY, 2022.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Allen Taylor, City Attorney**