

ORDINANCE #976

AN ORDINANCE AMENDING CHAPTER 6 "HEALTH AND SANITATION", ARTICLE 6.700 "OPERATION OF PUBLIC SWIMMING POOLS AND SPAS" OF THE LAKE WORTH CODE OF ORDINANCES (2004), AS AMENDED, BY AMENDING THE REGULATIONS FOR PUBLIC SWIMMING POOLS AND SPAS; 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 IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth 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, Chapter 6 of the Lake Worth 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 certain provisions of the health and sanitation regulations providing for the regulation of public swimming pools and spas

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

Section 1.

Article 6.700 "Operation of Public Swimming Pools and Spas" of Chapter 6 "Health and Sanitation," of the Lake Worth Code of Ordinances is hereby amended by revising and renumbering the article in its entirety to read as follows:

Article 6.700 OPERATION OF PUBLIC POOLS, SPAS, AND INTERACTIVE WATER FEATURES

Sec.6.701 Designation of Public Health Authority

The City designates the Tarrant County Health Department and its Public Health Authority for the purpose of insuring minimum standards of environmental health and sanitation within the scope of that department's function. Nothing in this Article shall be construed to delegate authority or preempt inspection by the City of swimming pools for compliance with the City's Building Regulations, this code or other applicable law.

Sec.6.702 State Regulations and Guidelines Adopted

There is hereby adopted by reference of the V.T.C.A., Health and Safety Code § 341.064; 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." A copy of each shall be kept on file in the official records of the City.

Sec.6.703 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 article:

Certified Pool Operator. A person who possesses a valid pool operator's certificate from a course approved by the City.

City. Authorized representatives of the City of Lake Worth, Texas, which shall include the Director and Representatives of the Tarrant County Public Health Department.

Director. 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.

Health Department. Tarrant County Public Health Department.

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, dumping buckets, or shooting water cannons in various arrays for the purpose of wetting the persons playing in the spray streams.

Public Pool. Any pool, other than a private residential pool.

Regulatory Authority. The director and representatives of the Tarrant County Public Health Department.

Spa. A constructed permanent or portable structure that is two (2) feet or more in depth and that has a surface area of two hundred and fifty (250) square feet or less or a volume of three thousand two hundred fifty (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, hydro jet 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 tub," etc. A spa does not include a private residential spa.

Sec.6.704 Public Pool, Spa, and Interactive Water Feature Permits

(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 issued by the regulatory authority.

(B) *Posting.* A valid permit shall be posted in public view in a conspicuous place at the public pool for which it is issued or on file in a secure area of the permitted facility's premises.

(C) *Nontransferable (change of ownership).* Permits issued under the provisions of this article are not transferable. Upon change of ownership of a business, the new business owner will be required to meet current standards as defined in the city ordinances and state law before a permit will be issued. The new owner shall notify the city within ten (10) days after assuming ownership of the public 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 one (1) permit.

(E) *Denial of Permit.* A permit may be denied if the city, upon inspection, determines that the requestor has failed to comply with approved plans and specifications adopted in accordance with these rules.

(F) *Inspection for Permits.* An inspection shall be required annually to qualify for a permit. A permit is valid for one (1) year from the date of issuance. The regulatory authority shall perform the annual inspections for compliance with the provisions of this Article.

Sec.6.705 Review of Plans/Specifications

(A) *Submission of plans.* Before construction or extensive remodeling on a public pool, spa, and/or interactive water feature 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 name, address, and phone number of the entity primarily responsible for constructing the public pool, spa, or interactive water feature and the name, address, and phone number of the entity responsible for operating the public pool, spa, or interactive water feature;
- (4) A check or money order in the amount of one hundred fifty dollars (\$150.00) for the Plan Review and Opening Inspection Fee, payable to Tarrant County, Texas; and
- (5) Any additional information necessary to verify compliance.

(B) *Approval.* The city and the regulatory authority shall approve plans and specifications that meet the requirements of this Article and all other provisions of this code. No public pool, spa, or interactive water feature shall be constructed or extensively remodeled except in accordance with plans and specifications approved by the city.

Sec.6.706 Inspections

(A) *Preoperational Inspections.* The city and/or 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 (3) working days prior to the desired public pool, spa, or interactive water feature opening date.

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

(C) *Inspection Fees.* A fee, as set forth in this ordinance, 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. Only one permit will be required for a public pool, spa, or interactive water feature connected to a single filtration system. Inspection fees shall be based on the number of filtration systems located at a single address. This fee shall be separate from the fee the City shall collect pursuant to Section 3.1781 of this Code.

- (1) Plan Review and Opening Inspection Fee: \$150.00
- (2) Annual Permit/Inspection (per filtration system): \$250.00
- (3) Required Reinspection: \$75.00

Sec.6.707 Public Pool, Spa, and Interactive Water Feature Closures

(A) *Closures.* 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 (8) ppm; or
- (5) Any other imminent health hazards.

(B) *Notice.* A closed sign shall immediately be posted and the public pool, spa, or interactive water feature access gate shall be locked until all violations have been corrected.

Sec.6.708 Public Pool, Spa, and Interactive Water Feature Records

(A) *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 (3) times per day;

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

Sec.6.709 Suspension and Revocation of Permit

(A) *Notice of Suspension.* The city may temporarily suspend the permit of a public pool, spa, or interactive water feature for noncompliance with state public pool, spa, or interactive water feature standards, by issuing a written notice for suspension. When a permit is suspended public pool, spa, or interactive water feature operations shall immediately cease. A closed sign shall be immediately posted and the public 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 city, 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 city may end the suspension any time if the reasons for suspension no longer exist.

(C) *Revocation of Permit.* The city 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 city in the performance of its duties. Prior to revocation, the city shall notify the holder of the permit of the person in charge, in writing, or the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice. Unless a written request for a hearing is filed with the city by the holder of the permit within such ten (10) 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 the public pool, spa, 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 ordered 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 Tarrant County Public Health

Department.

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

(H) *Closed Public Pool, Spa, or Interactive Water Feature.* Prior to reopening, the owner or operator shall provide the application and fee required by section 6.705(A) if a public pool, spa, or interactive water feature;

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

(2) Closes on court order on more than two (2) occasions in one (1) calendar year.

Sec.6.710 Public Pool, Spa, and Interactive Water Feature Operator Certification

(A) *Requirement.* The person in charge of public pool, spa, or interactive water feature operations at a Class C pool as defined by the adopted regulations, shall have at least one (1) certified public pool, spa, or interactive water feature operator employed to maintain the public pool, spa, or interactive water feature for each apartment complex or municipal location. The certificate must be kept on premises to facilitate inspections.

(B) *Termination of Certified Public Pool, Spa, or Interactive Water Feature Operator.* In the event that a certified public pool, spa, or interactive water feature operator is terminated or transferred, the business shall have sixty (60) days from the operator's termination or transfer date to designate a new certificate holder. This requirement is applicable even if public pool, spa, or interactive water feature maintenance operations are contracted to an outside company.

Sec. 6.711 Violations and Penalties

Any person, firm, or corporation who violates, disobeys, omits, neglects, refuses, or fails to comply with or who resists the enforcement of any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be subject to a fine in accordance with the general penalty provision set forth in Section 1.109 of this code for each offense, and each and every day such violation continues shall constitute a separate offense.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Revised Code of Ordinances of the City of Lake Worth, Texas (2004), as amended,

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 such ordinances and such Code are hereby repealed.

SECTION 3.

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 any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of 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 any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

All rights and remedies of the City of Lake Worth are expressly saved as to any and all violations of the Lake Worth Code of Ordinances, as amended, or any other ordinances affecting public pools, spas, and interactive water features which 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 5.

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 fined not more than Two Thousand Dollars (\$2,000.00) for all violations involving (fire safety, zoning or public health and sanitation, including dumping of refuse), and shall be fined Five Hundred Dollars (\$500.00) for all other violations of 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 Lake Worth is hereby directed to publish in the official newspaper of the City of Lake Worth, the caption, the penalty clause, publication clause, and effective date clause of this ordinance two (2) days as authorized by Section 52.013 of the Local Government Code.

SECTION 7.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS 8TH DAY OF NOVEMBER, 2011.

Approved:


Walter Bowen
Walter Bowen, Mayor

Attest:

Linda Rhodes
Linda Rhodes, TRMC/CMC
City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jenny Hawley
City Attorney