



ORDINANCE NO. 3690

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, RETITLING AND AMENDING IN ITS ENTIRETY ARTICLE VIII “SWIMMING POOLS” OF CHAPTER 34 “ENVIRONMENT” OF THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH RELATING TO REGULATION OF PUBLIC POOLS, SEMI-PUBLIC POOLS, SPA, AND PUBLIC INTERACTIVE WATER FEATURES; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order to remain consistent with changes in state laws and regulations relating to the regulation of public and semi-public pools, spas and public interactive water features, and on the recommendation of City Administration, the City Council of the City of Farmers Branch finds it to be in the public interest and necessary for the preservation of public health and safety within the City of Farmers Branch to amend the Code of Ordinances as follows.

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

SECTION 1. Chapter 34 “Environment of the Code of Ordinances of the City of Farmers Branch is amended by retitling Article VIII “Swimming Pools” and amending said Article VIII in its entirety to read as follows:

ARTICLE VIII. - SWIMMING POOLS, SPAS, AND PUBLIC INTERACTIVE WATER FEATURES (PIWF)

Sec. 34-351. - Adoption and Amendments of the State Health Regulations.

The Texas Department of State Health Services Pool and Spa Rules (the “State Rules”), contained in Chapter 265, Subchapter L of Title 25 of the Texas Administrative Code, as they may be amended and replaced from time to time, , except to the extent amended, modified, and deleted by this Article, are hereby adopted as the minimum standards for the construction and operation of public and semi-public swimming pools and spas. The Texas Department of State Health Services Pool and Spa Rules (the “State Rules”), contained in Chapter 265, Subchapter M of Title 25 of the Texas Administrative Code, as they may be amended and replaced from time to time, except to the extent amended, modified, and deleted by this Article, are hereby adopted as the minimum standards for the construction and operation and public interactive water features (PIWF).

Sec. 34-352. - Definitions.

When used in this article, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning, and shall be in addition the definitions set forth in the State Rules:

Barrier is a fence, building wall, a wall or combination that completely surrounds the swimming pool and obstructs any access to the swimming pool, spa and public interactive feature.

Certified pool operator (CPO). Any individual who has taken and successfully passed a certified pool operator course that is recognized by the Texas Department of State Health Services as provided in 25 TAC 265.205(b), or by the regulatory authority and has in their possession an unexpired certificate of completion.

Code official means, the city building official or such official's authorized representative.

Facility or Facilities means a public or semi-public pool, spa, public interactive water feature, restroom, dressing room, equipment room, deck, walkway, beach entry, enclosure, or other appurtenance directly serving the pool, spa, or PIWF.

Operator means the person ultimately responsible for the safe, sanitary maintenance of a facility and is a Certified Pool Operator.

Regulatory Authority means the health code official or such official's representative who regulates the operation and maintenance of the facilities.

Remodel means the replacement or modification to a facility structure, circulation system, and/or its appurtenances such as design, configuration and operating characteristics that are different than the original design, configuration and operating characteristics.

Semipublic pool means any pool or spa that is privately owned and located on the premises of a hotel, motel, trailer court, apartment house, private club, townhouse complex or other similar establishment where use of the pool is limited to members or residents and their guests.

Swimming pool and *pool* mean any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving or recreational bathing.

Spa includes, but is not limited to, the terms "therapeutic pool," "hydrotherapy pool," "whirlpool," "hot spa," etc., which may not be drained, cleaned or refilled

for each individual. It may include, but not be limited to, hydrojet circulation, hot water, cold water mineral baths, air induction bubbles or any combination thereof.

Underground vault means space, chamber, or passage enclosed by a vault or vault-like structure, that is located underground.

Sec. 34-353. Construction Requirements

- (a) Whenever a facility is constructed or extensively remodeled, or whenever an existing structure or part of a facility enclosure is changed, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this division. No facility, facility enclosure, facility structure, or facility equipment shall be constructed, extensively remodeled, or converted except when a permit has been granted by the regulatory authority demonstrating compliance with this division. A pre-operational inspection will be conducted at the facility prior to the start of operations to determine compliance with approved plans and with the requirements of this article.
- (b) The regulatory authority shall require the replacement of equipment and facilities if they are discovered to be in poor condition, fail to function properly, do not meet current requirements, or endanger the health and safety of the public.
- (c) The regulatory authority may require the replacement of the facilities and equipment because of a change of ownership and all requirements of this article shall be met prior to resuming normal course of operations

Sec. 34-354. - Operational Health permit required.

- (a) No person shall operate a facility without a valid and current permit issued by the regulatory authority. Only a person who complies with the requirements of this division shall be entitled to receive or retain such a permit. Permits are not transferable and must be displayed in an area visible to the public.
- (b) Permits required per Subsection (a) will be issued in accordance with the following:

- (1) A written application shall be submitted annually on or before March 31 with all information deemed necessary by the regulatory authority provided on the application.
- (2) An application and permit fee in the amount established by the City Council and set forth in Appendix A of this Code is required for each facility. A permit that is issued will be valid from date of issuance until March 31 of the immediately following calendar year, unless suspended or revoked. Permits must be renewed on an annual basis by filing a renewal application and payment of the permit fee. The fee is not refundable. Payment of an administrative late fee in an amount established by the City Council and set forth in Appendix A of this Code may be required if an application for a renewal permit is submitted more than fifteen (15) days after the previous permit has expired.
- (3) Prior to final approval of an application for permit and issuance of the related permit, the regulatory authority shall inspect the facility to determine compliance with the requirements of this Article. If a facility fails inspection at any time during the year and a re-inspection is required, a re-inspection fee in the amount established by the City Council and set forth in Appendix A of this Code may be charged.

Sec. 34-355. - Inspections.

The regulatory authority, after presenting proper identification, shall be permitted to enter any facility at any time, for the purpose of making inspections to determine compliance with this article. The regulatory authority shall be permitted to examine the records of the facility, including testing logs and proof of operator certification.

- (1) *Consent and authorization.* Application for and operation of a facility inside the City constitutes consent for the regulatory authority to inspect the facility to determine compliance with this article. Should any owner, person in charge, employee, or agent of the facility hinder, physically prevent, interfere with, or otherwise obstruct the lawful inspection of a facility by the regulatory authority, such action may constitute reason for suspension or revocation of permit and a violation of this section.
- (2) *Pre-opening or pre-season inspection.*
 - (i) The operator of any facility shall notify the regulatory authority of the date intended for the initial opening of the facility for initial operations or for the season.

- (ii) The regulatory authority shall conduct a pre-opening or pre-season inspection at facilities that have been closed for 30 days or longer to verify the facilities conform with requirements contained within this article.
 - (iii) No facility shall open for the season if it does not pass this pre-opening or pre-season inspection.
 - (iv) The certified pool operator shall be present at this inspection.
- (3) *Inspection reports.*
 - (i) Whenever an inspection is conducted at a facility, the findings shall be recorded on an inspection report form provided by the regulatory authority. The original inspection report form shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of these rules and shall set forth a pass or fail ranking for the facility. The completed inspection report form is a public document that should be posted at a conspicuous location for the public.
 - (ii) Violations noted on the inspection report by the regulatory authority shall be corrected within the time frame given. A reasonable time frame for compliance shall be given for violations unless the health, welfare, or safety of persons using the facility is at risk. If the regulatory notes any condition that endangers public health, the facility shall immediately be closed, and the permit temporarily suspended.

Sec. 34-356. - Maintenance and operation.

(a) *Certified Pool Operator*

- (1) No person shall operate a facility without obtaining and maintaining certification as a certified aquatic facility operator (A.F.O.), certified pool/spa operator (C.P.O.), pool operator on location (P.O.O.L.) or other certification deemed equivalent by the regulatory authority. All certifications shall be approved by the regulatory authority.
- (2) On days the facility will be open, a certified pool operator shall test swimming water for pH, disinfectant, water clarity, stabilizer, and temperature to assure safety and protect public health. If test results are not within required limits, the facility shall be immediately

closed and a closure sign posted in a highly visible area. Prior to opening the facility for use, all test results shall be within approved state limits and findings documented to include initial results, corrective actions and final readings.

(b) All pumps, filters, disinfectant and chemical feeders, drains, ladders, lighting, ropes and other appurtenant equipment used in the operation of all facilities shall be maintained in good working condition.

(c) All new and existing facilities shall be treated and maintained in accordance with the following standards:

(1) *Water quality.*

(i) All facilities shall be maintained and kept free of algae to provide sufficient clarity of the main drain from outside the pool at all times. No person shall allow a facility under the person's control to violate this standard unless the facility has a cover installed complying the requirements of the regulatory authority.

(ii) Free chlorine levels shall be maintained from two (2) ppm to eight (8) ppm.

(iii) pH levels shall be maintained from 7.2 to 7.6.

(iv) Cyanuric Acid shall be maintained from 30 -50 ppm.

(v) Total alkalinity of the water shall be at least 60 ppm.

(vi) Every pool shall have clarity sufficient for the main drain, or a six-inch-diameter turbidity test disk placed at the deepest part of the pool, to be readily visible; failure to meet this requirement shall constitute grounds for immediate closing of the pool.

(vii) The recirculation system of a facility must be in operation and properly maintained at all times.

(2) *Water disposal.*

(i) All facilities containing disinfectant shall discharge filter backwash and overflow lines into an approved septic tank system or sanitary sewer. Additionally, no person shall allow water containing disinfectant from facilities to be discharged into the storm sewer.

- (ii) It shall be unlawful for any person to drain water from a facility onto public or privately-owned property at any time. Facilities drained for repairs shall be discharged into the sanitary sewer or approved septic tank system.
 - (iii) Deck drains of all facilities, including residential pools, shall be discharged to a lawn, leaching field, or natural drain
- (d) Areas surrounding a public pool or semipublic pool, including bathhouses, dressing rooms, toilets, shower stalls and lounging areas, shall be kept clean and in a state of proper repair at all times.
- (e) An air gap or antisiphon device must be installed on any pipe or hose bibb leading to the pool.

Sec. 34-357. - Safety provisions.

- (a) The following safety equipment must be readily available anytime a public pool or semipublic pool is open for use:
 - (1) A life pole or Shepard's crook pole capable of reaching every part of the pool.
 - (2) A guard line rope separating the shallow portion of the pool from the deep portion of the pool at the break point depth.
- (b) All public pools shall be attended by at least one lifeguard during all hours of operation. Semipublic pools, where no lifeguard service is provided, must post in plain view a warning sign which states "Warning—No Lifeguard on Duty" with clear legible letters at least four inches in height.
- (c) A placard listing pool rules and the emergency phone numbers of the police department and emergency medical service shall be provided and placed in distinct view of swimmers at all public pools and semipublic pools.
- (d) A functional telephone capable of dialing directly to 911 or emergency answering service must be permanently mounted within the pool enclosure or accessible to the public from inside the enclosure.

Sec. 34-358. - Regulations in Pool, Spa and PIWF area.

A person commits an offense if the person:

- (1) Allows an animal under his control to enter or remain within the pool area or pool enclosure of a facility;
- (2) Has skin abrasions, open sores, skin disease, eye disease, nasal or ear discharge, or a communicable disease and swims in a facility;
- (3) Works at a facility while suffering from a communicable disease;
- (4) Alters or removes safety equipment from a facility except in a bona fide emergency; or
- (5) Carries glass within a facility enclosure.

Sec. 34-359. - Failure to comply.

Failure to comply with the provisions of this article may result in the immediate closure of the facility and/or the initiation of legal action. Upon determination that the construction or operation of a facility does not comply with the provisions of this article, the regulatory authority shall notify the operator of the existing violations. If conditions warrant, closure of the facility, a reinspection of the facility will be conducted during regular working hours of the regulatory authority at the request of the operator of the facility. If compliance has been achieved, the operator shall be notified that the facility may be re-opened.

Sec. 34-360. - Suspension of operational permit.

- (a) The regulatory authority shall have the authority to suspend a permit to operate a facility if:
 - (1) The annual permit fee is not paid;
 - (2) An owner fails to designate and retain a certified pool operator as required in this article;
 - (3) The condition of a facility is hazardous to the health or safety of swimmers or the general public; or
 - (4) The owner fails to keep all facility equipment and devices working properly.
- (b) The suspension of a permit pursuant to this section shall continue until the reason for the suspension is corrected.

Sec. 34-361. - Appeal.

If the regulatory authority denies the issuance of a permit or suspends a permit, the regulatory authority shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of such action and the right to an appeal. The applicant or permit holder may appeal the decision of the regulatory authority by filing a written request with the regulatory authority for a hearing not later than ten (10) days after receipt of the notice from the regulatory authority. The action of the regulatory authority shall be deemed final if an appeal is not requested within said ten (10) day period.

Sec. 34-362. - Enforcement responsibility.

The health regulatory authority will have enforcement responsibility for this article.

SECTION 2. Except as provided in Section 1 of this Ordinance, all provisions of the Ordinances of the City of Farmers Branch, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 4. Should any sentence, paragraph, 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 decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense as set forth in Section 1-14 of the Code of Ordinances.

SECTION 6. This ordinance shall take effect on August 1, 2021, following its passage and publication in accordance with the provisions of the charter and state law.

**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH,
TEXAS, ON THIS THE 15TH DAY OF JUNE 2021.**

ATTEST:

APPROVED:

Amy Piukana, City Secretary

Robert C. Dye, Mayor

APPROVED AS TO FORM

Peter G. Smith, City Attorney
(kbl:6/8/21:122918)