

ORDINANCE NO. 7514

AN ORDINANCE AMENDING CHAPTER 22, "HEALTH" OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

**Section 1**

That Article VI, "Public and Semipublic Swimming Pools", be renamed as "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features".

**Section 2**

That Section 22.85, "Definitions", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby amended in pertinent part to read as follows:

**"Section 22.85 Definitions.**

(A) As used in this article, the following terms shall have the definitions given them in this section:

Abandoned shall mean a public or semipublic swimming pool, spa, or PIWF that has not possessed a valid permit to operate issued by the Health Department for a period of three hundred sixty-five (365) days or more.

Director shall mean the Director of the Health Department of the City or their designated representative.

Existing pool shall mean a pool or spa that was constructed prior to March 19, 2024.

Extensively remodeled shall mean replacement of facility components or modification of the pool, spa, or PIWF so that the design, configuration, capacity, or operation differs from the original design, configuration, capacity, or operation. This term does not include the normal maintenance and repair of a pool or spa or PIWF or a water circulation system or the partial

replacement of circulation system equipment if the size, type, or operation of the equipment is not substantially different from the original equipment. This definition shall supersede the one at 25 Tex. Admi. Code § 265.302(28).

Neglected shall mean a public or semipublic pool or spa that has constituted a swimming pool nuisance for more than thirty (30) days.

Operator shall mean the person who is in control of the property upon which a public or semipublic swimming pool is located.

Person shall mean any individual, firm, partnership, association, corporation, governmental agency, club, or organization of any kind.

PIWF shall mean a Public Interactive Water Feature.

Pool enclosure shall mean the area immediately around a pool enclosed by a fence, wall, or other solid structure which complies with Article X, "Fences", of Chapter 30, "Building Inspection", of this Code, and Chapter 757, "Pool Yard Enclosures", of the Texas Health and Safety Code.

Semipublic pool shall mean a pool that is privately owned and open only to an identifiable class of persons, including, but not limited to, motel guests, apartment residents, and club members.

Spa shall mean a constructed permanent or portable structure that is 2 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.

Swimming pool nuisance shall mean a public or semipublic pool or spa with one or more of the following conditions: insufficient water clarity, improperly maintained pool enclosure, source of mosquito breeding, or failure to comply with the safety provisions of this Article.

TAC shall mean the Texas Administrative Code.

(B) The definitions set forth in 25 Tex. Admin. Code § 265.182 and 25 Tex. Admin. Code § 265.302 are incorporated herein by reference. In the event of a conflict between a definition in the TAC and a definition in this Article, the definition in this Article shall control."

### Section 3

That Section 22.86, "Evaluations", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

#### **"Section 22.86 Enforcement of Article provisions.**

(A) Evaluations. The Director may evaluate a public or semipublic pool, spa, or PIWF at any reasonable time and has authority to enter upon the premises where a pool, spa, or PIWF is located to the extent necessary to make a full evaluation. The Director shall have the authority to collect water samples for the purpose of determining water quality as described in 25 TAC Subchapter L and Subchapter M. The operator of a pool, spa, or PIWF shall provide a key or lock combination to provide complete access to all pool enclosures and equipment to the Director if there are no on-site personnel.

(B) Enforcement. Enforcement of the rules and the provisions of this article shall be by the Director, or their duly appointed representative. Any references in the rules to regulatory authority or local regulatory representative shall mean the Director, or his duly appointed representative."

### Section 4

That Section 22.87, "Maintenance and operation", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

#### **"Section 22.87. Issuance of operating health permit.**

(A) No owner, operator, or person in control of a public or semipublic swimming pool, spa, or PIWF shall allow any person to use the pool, spa, or PIWF unless a valid health permit to operate has been issued by the Health Department. Permits are not transferable. The owner, operator, or person in control of a pool, spa, or PIWF shall post the valid permit for public view and shall make the permit available for inspection by the Director at all

times. Such permit expires annually the first day of March unless suspended or revoked for cause as prescribed in this Article.

(B) Applications for a permit to operate public or semipublic swimming pool, spa, or PIWF shall be made to the Health Department on forms provided by that department. The applicant shall complete the application in its entirety.

(C) Inspections. Prior to the issuance of an annual operating health permit for a public or semipublic swimming pool, spa, or PIWF, at least one pre-opening inspection must be conducted.

(D) Time for Inspections. The operator of any public or semipublic pool, spa, or PIWF shall notify the Director of the date intended for the initial opening for the season. If operations are year-round, the operator shall request an inspection shall be made and said inspection conducted before March 1. An evaluation will be made at that time to determine compliance with this Article. The operator shall not allow operation or use of a pool, spa, or PIWF prior to obtaining a valid permit."

## **Section 5**

That Section 22.88, "Safety Provisions", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended in pertinent part to read as follows:

### **"Section 22.88 Suspension or denial of permit.**

(A) If it is determined by the Director that the operation or maintenance of the public or semipublic pool, spa, or PIWF facility constitutes a serious health or safety hazard for users, as specified in 25 TAC 265 Subchapter L and/or Subchapter M or herein, the Director shall have the authority to temporarily suspend or deny a permit to operate a public or semipublic pool, spa, or PIWF.

(B) A public or semipublic swimming pool, spa, or PIWF shall be temporarily closed for use whenever any of the following conditions occur and shall not be reopened for use until the condition has been brought into compliance and the appropriate reinspection fee paid, and a reinspection conducted by the Director verifies that all hazardous conditions have been eliminated, such as:

(1) The amount of a residual disinfectant and/or pH for a pool or spa is less than, or greater than, the minimum and/or maximum amounts specified in Figure: 25 TAC § 265.193(c);

(2) The amount of a residual disinfectant and/or PH for a PIWF is less than, or greater than, the minimum and/or maximum amounts specified in Figure: 25 TAC § 265.306(c);

(3) If any of the suction outlet covers are expired, loose, missing, damaged and/or of a nonapproved anti-vortex design;

(4) The clarity of the water does not comply with the provisions in 25 TAC § 265.193(e);

(5) The temperature of spa water is greater than 104 degrees Fahrenheit;

(6) There is malfunction or nonfunction of the recirculation system and/or the automatic disinfectant feeder(s);

(7) When no lifeguard is present, any entrance or exit gate not self-closing and self-latching, or gaps in the pool enclosure that would allow the passage of a 6-inch sphere;

(8) The swimming pool, spa, or PIWF does not conform to the construction permit plans as it pertains to life safety compliance;

(9) The presence of vomitus or fecal matter in the pool, spa, or PIWF;

(10) No operable emergency telephone;

(11) The absence of rescue equipment as specified in 25 TAC § 265.190(g);

(10) The annual permit fee or follow-up evaluation fees are not paid;

(11) The permit holder or pool operator prohibits the Director from conducting a lawful inspection; or

(12) The permit holder or pool operator provides false information to the Director or provides falsified documentation on chemical testing records to the Director.

(C) The Director, upon determination that the public or semipublic pool, spa, or PIWF does not comply with the provisions of this article shall make reasonable efforts to notify the certified operator of the violation(s) and place, on the primary gate leading to the pool, spa, or PIWF, a sign notifying patrons of pool closure. The Director may, based on the nature and extent of the violation(s) present, affix a lock or similar closing mechanism on the gate(s) leading to the pool.

(D) The Director will conduct a reinspection of the pool during regular working hours of the Health Department at the request of the certified operator. If compliance has been achieved, the certified operator shall be notified that the pool is then reopened and the Director shall remove the closure notification and/or any closure mechanisms."

#### **Section 6**

That Section 22.89, "Regulations in pool area", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended in pertinent part to read as follows:

#### **"Section 22.89 Adoption of Texas Health Services regulations.**

The City adopts Title 25, "Health Services", Part I, "Department of State Health Services", Chapter 265, "General Sanitation", Subchapters L, "Public Swimming Pools and Spas", and M, "Interactive Water Features and Fountains", of the Texas Administrative Code. Unless deleted, amended, expanded, or otherwise changed herein, all provisions of these provisions of the Texas Administrative Code shall be fully applicable, binding, of full force and effect within the city."

#### **Section 7**

That Section 22.90, "Lifeguards", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code

of Ordinances of the City of Garland, Texas, is hereby renamed and amended in pertinent part to read as follows:

**"Section 22.90 Amendments to the Texas Administrative Code.**

(A) In accordance with 25 Tex. Admin. Code § 265.181(g) and 25 Tex. Admin. Code § 265.301(c), the City has adopted standards different from and equivalent to or more stringent than those set forth in the TAC. To the extent any of the amendments contained herein conflict with those of the Texas Administrative Code, the amendments shall control.

(B) The following amendments are made to the TAC:

(1) 25 Tex. Admin. Code § 265.183 is amended in pertinent part to read as follows:

"(a) No person shall hereafter construct, extensively remodel, or replace equipment for which a mechanical, plumbing, or electrical permit is required for a public or semipublic pool, spa, or PIWF without having first obtained a building permit from the City of Garland Building Inspection Department. Prior to the issuance of a building permit for the construction of a new pool, spa, or PIWF, the remodel of an existing pool, spa, or PIWF, properly prepared plans and specifications for such construction or remodeling shall be submitted to the regulatory authority for review and approval.

(1) Plans submitted for review must contain the following: Plans must be drawn to scale and include both a top view and a side cross section view. All dimensions and specifications required by code must be referenced on the plans. A registered professional engineer or architect must confirm, by letter and seal, that the pool was designed and will be constructed in compliance with Title 25, Chapter 265, subchapters L and M of the TAC .

(2) Prior to Health Department approval for a newly constructed or remodeled public or semipublic swimming pool, spa, or PIWF, the following inspections shall be conducted by the Director: (a) after plumbing is completed,

but before gunite; (b) prior to filling, but after the pool enclosure is present; and (c) a final preopening or preoperational inspection. These inspections are to verify that the pool, spa, or PIWF is constructed in accordance with all approved plans and requirements, and the water chemistry complies with the requirements set forth in this article, prior to its opening and use by the public. Prior to permit issuance, a registered professional engineer or architect must confirm, by letter and seal, that the pool was constructed in compliance with Title 25, Chapter 265, subchapters L and M of the TAC.

. . .

(c) Accepted practice for pools, spas, or PIWFs. The structural design and materials for pools, spas, or PIWFs constructed before the effective date of this subchapter must be in accordance with accepted industry engineering practices and methods prevailing at the time of original construction unless otherwise stated in this subchapter. Pools, spas, and PIWFs shall be constructed of materials that are impervious, cleanable, and permanent."

(2) 25 Tex. Admin. Code § 265.185 is amended to read as follows:

"(a) A pump for a pool or spa must not be operated if the owner or operator of the pool or spa knows or should know in the exercise of ordinary care that the drain grate, suction outlet, or any suction outlet cover is missing, broken, or loose. If such a condition exists, the pool or spa must be closed and remain closed until corrected.

(b) A replacement suction drain cover with fasteners meeting the manufacturer's specifications must be kept on site. The replacement suction drain cover with fasteners meeting the manufacturer's specifications shall be identical to the drain cover(s) in use and a copy of the manufacturer's specifications for the drain

cover in use shall be kept on site and be available for inspection. This subsection does not apply to grates that are 24 inches or larger, measured diagonally. Installation date of suction drain covers shall be maintained on site and provided to the regulatory authority upon request.

(c) All pools, spas, and PIWFS shall be equipped with the following:

(1) A pump suction (vacuum) gauge installed as close to the suction side of the pump as possible without sacrificing efficiency.

(2) A filter inlet pressure gauge installed in the area of greatest pressure.

(3) A filter outlet gauge.

(4) A functional rate of flow meter, located to accurately indicate the rate of flow through the filter in gallons per minute. The flow meter shall be accurate to within ten percent (10%) of true flow and shall be easy to read.

(d) Exposed piping in all pools and spas and PIWFs shall be labeled to identify the piping function and direction of flow. The name of the liquid or gas and arrows indicating direction of flow, shall be permanently indicated on the pipe."

(3) 25 Tex. Admin. Code § 265.186(a) is amended to read as follows:

"(a) Licensed electrician required.

(1) Installation, maintenance, repairs, and replacement of electrical systems. The electrical system of a pool or spa and structures in the pool yard or spa yard must be installed, maintained, repaired, or replaced by a licensed electrician in accordance with the Texas Electrical Safety and Licensing Act, Texas Occupations Code, Chapter 1305 and related rules. Any electrical work must be permitted as required in Chapter

30 of the Garland Code of Ordinances.

(2) Annual certification requirements. A certification letter signed by a licensed electrician in accordance with the Texas Electrical Safety and Licensing Act, Texas Occupations Code, Chapter 1305 and related rules, shall be provided annually. The letter must certify that the electrical system meets all applicable electrical requirements as of the original date of the electrical system's installation. The certification letter must be submitted with the annual application for a permit to operate the pool or spa."

(4) 25 Tex. Admin. Code § 265.189(g)(1) is amended to read as follows:

"(1) Automatic distribution of chemicals. Required ranges of disinfectant shall be maintained by an automatic continuous feeder. When using automatic feeders, automated controllers that adjust chemical feed based on demand or manually, or remotely managed controllers for pool and spa disinfection and pH control, must be installed. Automatic feeders must meet NSF Standard 50 for use in public pools and spas and must operate in a manner that does not invalidate the NSF rating for the system and equipment."

(5) 25 Tex. Admin. Code § 265.190(a)(3)(A) is amended in pertinent part to read as follows:

"(A) A rope and float line shall also be used in addition to the transition line and must be provided between 1 and 2 feet on the shallow water side of the 5-foot depth. The floats must be spaced at not greater than 7-foot intervals and secured so they will not slide or bunch up. The stretched rope and float line must be a size to offer a good handhold and strong enough to support loads normally imposed by users."

(6) 25 Tex. Admin. Code § 265.190 is amended by creating a new subsection (k) which shall read as follows:

"(k) Diving equipment and other water entry devices shall be installed according to the manufacturer's instructions and specifications and shall meet all applicable national standards. A certification letter shall be provided from the manufacturer or an installer stating that the equipment meets all applicable standards and is suitable for the specific pool type."

(7) 25 Tex. Admin. Code § 265.192 is amended by creation of a new subsection (i) which shall read as follows:

"(i) Overhead electrical service wires and other electrical wires and lighting shall not pass within twenty (20) feet of the pool enclosure."

(8) 25 Tex. Admin. Code § 265.194 is amended by creation of new subsections (u) and (v) which shall read as follows:

"(u) All surfaces within the pool, spa, or PIWF enclosure, including the pool, spa, and PIWF, the deck, and any other areas, shall be kept in good repair. All pool, spa, and PIWF surfaces shall be cleanable.

"(v) Restrooms adjacent to or within the pool or spa enclosure shall be equipped with dispensed paper towels or a hand drying device."

(9) 25 Tex. Admin. Code § 265.198 is amended by creation of a new subsection (d) which shall read as follows:

"(d) It shall be unlawful for any person to remove, deface, cover, or render unreadable a pool closure sign posted by the health authority.

(10) 25 Tex. Admin. Code 265.302(28), defining "extensively remodeled", shall be superseded by the definition set forth in this Article."

## **Section 8**

That Section 22.91, "Spa Operation", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

### **"Section 22.91 Abandoned public or semipublic swimming pools, spas, and PIWFs**

(A) It shall be unlawful to cause, suffer or permit an abandoned semipublic or public pool or spa to exist within the City.

(B) When the Director has confirmed the existence of an abandoned or neglected semipublic pool or spa, the owner, manager, or operator shall be issued, in writing, a list of control measures that will gain compliance with this article. The control measures, and the compliance period for their completion, will be contained in a written health order."

## **Section 9**

That Section 22.92, "Notification of Operation", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

### **"Section 22.92 Responsibility of bather.**

(A) It shall be unlawful for any person to enter a pool or spa or PIWF within fourteen days of having diarrhea caused by infection.

(B) It shall be unlawful for any person to allow a minor under the custody and control of that person to enter a pool or spa or PIWF within fourteen days of having diarrhea caused by infection."

## **Section 10**

That Section 22.93, "Pool permits", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

**"Section 22.93 Interfering with or hindering the regulatory authority.**

It shall be unlawful for any person to interfere with or hinder the regulatory authority in the exercise of its duties under this Article."

**Section 11**

That Section 22.94, "Permit Fees", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

**"Section 22.94 Adoption of International Swimming Pool and Spa Code.**

(A) The International Swimming Pool and Spa Code ("ISPSC"), 2021 edition, is hereby adopted by reference, but only to the extent set forth in 25 Tex. Admin. Code § 265.181(c)-(d). A copy shall be kept on file in the office of the City Secretary. Unless deleted, amended, expanded, or otherwise changed herein, these provisions of the ISPSC shall be fully applicable, binding, of full force and effect within the city.

(B) In addition to the foregoing, the City hereby adopts the following sections of the ISPSC:

- (1) Section 109.2, "Temporary connection";
- (2) Section 109.3, " Authority to disconnect service utilities"; and
- (3) Section 114, "Stop Work Order" (in its entirety)."

**Section 12**

That Section 22.95, "Registered certified pool operator required", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

## **"Section 22.95 Amendments to the ISPSC (2021 edition)**

The following amendments are made to the ISPSC (2021 edition):

(1) Section 305.1, General, shall be amended to read as follows:

"Section 305.1 General. The provisions of this section shall apply to the design of barriers for restricting entry into areas having pools and spas."

(2) Section 305.5, Onground residential pool structure as a barrier, shall be deleted in its entirety.

(3) Section 318.3, Over-the-rim spouts, shall be amended to read as follows:

"318.3 Over-the-rim spouts. Over-the-rim spouts shall be located under a diving board, adjacent to a ladder, or otherwise shielded so as not to create a hazard. The open end of such spouts shall not have sharp edges, shall have a soft pliable end, and shall not protrude more than 2 inches (51 mm) beyond the edge of the pool. The open end shall be separated from the water by an air gap of not less than 1.5 pipe diameters measured from the pipe outlet to the rim."

## **Section 13**

That Section 22.96, "Suspension or denial of permit", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

### **"Section 22.96 Applicability of rules.**

Unless contradicted elsewhere in this Article, all public and semipublic swimming pools, spas, and PIWFs shall be subject to the rules in place at the time of their original construction."

## **Section 14**

That Section 22.97, "Abandoned or neglected pools", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and

Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, is hereby renamed and amended to read as follows:

**"Section 22.97 Permit fees.**

(A) Each person who owns or operates a public or semipublic pool, spa, or PIWF shall be assessed an annual permit fee in the amount designated in the Master Fee and Rate Schedule, Article VII, Section 10.85 of Chapter 10, for each public or semipublic pool, spa, or PIWF.

(B) No fee shall be charged to any public or semipublic swimming pool, spa, or PIWF operated by a governmental agency, independent school district, institution of purely public charity, church, or homeowner association; however, such establishments shall comply with all other requirements of this article.

(C) Each evaluation performed pursuant to this Article shall result in a follow-up evaluation if any violations of this article remain uncorrected at the conclusion of the initial evaluation. The first follow-up evaluation shall be performed at no cost to the swimming pool operator. Any subsequent follow-up evaluations shall result in the assessment of a fee in the amount designated in the Master Fee and Rate Schedule, Article VII, Section 10.85, of Chapter 10. The follow-up evaluation fee shall be paid prior to performance of the evaluation. When an initial evaluation reveals that no violations of this article exist, the person who operates the swimming pool, spa, or PIWF shall be credited one follow-up evaluation fee amount toward the next annual permit fee."

**Section 15**

That the Sections 22.98, "New Construction", and 22.99, "Responsibility of Bather", of Article VI, "Article VI, Public and Semi-public Swimming Pools, Spas, and Public Interactive Water Features", of Chapter 22, "Health", of the Code of Ordinances of the City of Garland, Texas, are hereby repealed.

**Section 16**

That Code of Ordinances for the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

**Section 17**

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Section 10.05 of the Code of Ordinances of the City of Garland, Texas.

**Section 18**

That the terms and provisions of this Ordinance are severable and are governed by Section 10.06 of the Code of Ordinances of the City of Garland, Texas.

**Section 19**

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

**PASSED AND APPROVED** this the 19th day of March 2024.

**CITY OF GARLAND, TEXAS**

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Mayor

**ATTEST:**

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Deputy City Secretary