

Office of the City Manager

City of Richland Hills, Texas

Memorandum

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council
From: Eric Strong, Assistant City Manager
Date: May 1, 2013
Subject: Update to Pool Inspection Ordinance

Council Action Requested:

Consider Ordinance # 1247-13 regarding regulation of swimming pools, spas or interactive water features.

Background Information:

The permitting in Richland Hills for any public pool, spa or interactive water feature (i.e. splash pads) is handled through Tarrant County. Tarrant County follows the State of Texas regulations, and has asked the City to adopt those rules by reference. The attached ordinance accomplishes this objective.

Tarrant County has also requested that we update our fees associated with the inspections and permitting of public pools, spas and interactive water features. The proposed fee schedule is also attached for your review. They have been providing this service to us for over 15 years and this is the first time they have updated their fee schedule.

Board/Citizen Input: N/A

Financial Impact: None

Staff Contacts:

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Attachments: Ordinance #1247-13

ORDINANCE NO. 1247-13

AN ORDINANCE REGARDING THE REGULATION OF SWIMMING POOL, SPA
OR INTERACTIVE WATER FEATURES

Section 1. 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.

Section 2. 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 Richland Hills, 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.

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.

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

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," etc. A spa does not include a private residential spa.

Section 3. Pool and spa 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.
- (b) *Posting.* A valid permit shall be posted in public view in a conspicuous place at the public swimming pool for which it is issued or on file in a secure area of the permitted facility's premises.
- (c) *Nontransference (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 city ordinances and state law before a permit will be issued. The new owner shall notify the city 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 one 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) *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 4. Review of plans and specifications

(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 city 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 city.

Section 5. Inspections

(a) *Preoperational inspections.* The city 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 city 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 pool, spa or interactive water feature owner's name and address and, if different, the pool, spa or interactive water feature operator's name and address.

- (c) *Inspection fees.* A fee, as set forth in the city's fee ordinances, 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. Inspection fees for single filtration systems shall be \$250.00 each.

Section 6. Pool, spa or 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)

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

Section 7. Pool and spa 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.

Section 8. 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 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. A closed sign shall be immediately posted 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 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 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 city 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 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 Tarrant County Health Department.

- (g) *Application after revocation.* Final revocation of a pool and/or spa 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 as listed in Review of plans and specifications, if a pool, spa or interactive water feature:
- (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.

Section 9. Public pool, spa or interactive water feature operator certification

- (a) *Requirement.* The person in charge of pool, spa or interactive water feature operations at a Class C pool as defined by the adopted regulations, shall have at least one certified pool, spa or interactive water feature operator employed to maintain the 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 pool, spa or interactive water feature operator.* In the event that a certified pool, spa or interactive water feature operator is terminated or transferred, the business shall have 60 days from the operator's termination or transfer date to designate a new certificate holder. This requirement is applicable even if pool, spa or interactive water feature maintenance operations are contracted to an outside company.

Section 10. Penalty for violation

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 article shall be fined not more than \$2,000.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 11. Designation of health authority

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

Section 12. Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent

provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 13. Effective Date

The provisions of this ordinance shall take effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 21ST DAY OF MAY, 2013.

THE HONORABLE BILL AGAN, MAYOR

ATTEST:

LINDA CANTU, TMRC, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

BETSY ELAM, CITY ATTORNEY

**SWIMMING POOL SPA & INTERACTIVE WATER FEATURE FEE
SCHEDULE**

Plan Review and opening inspection	\$150
Annual Permit	\$250
Required reinspection	\$75