

**CITY OF ROCKWALL**

**ORDINANCE NO. 03-18**

**AN ORDINANCE OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROCKWALL, BY AMENDING CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS IN ARTICLE VI SWIMMING POOL CODE BY THE ADDITION OF SEC. 6-103 PUBLIC SWIMMING POOL AND SPA DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE; PROVIDING FOR INCORPORATION BY REFERENCE OF THE TEXAS DEPARTMENT OF HEALTH “STANDARDS FOR PUBLIC SWIMMING POOLS AND SPAS” TEXAS ADMINISTRATIVE CODE, TITLE 25 – HEALTH SERVICES, PART I – CHAPTER 265 – GENERAL SANITATION, SUBCHAPTER L, RELATIVE TO REGULATING THE DESIGN, CONSTRUCTION, AND OPERATION OF PUBLIC SWIMMING POOLS AND SPAS; REQUIRING PERMIT; PROVIDING FOR PLAN REVIEW, PLAN REVIEW FEES, AND INSPECTION; PROVIDING DISINFECTION STANDARDS; PROVIDING FOR SAFETY FACILITIES AND PROCEDURES; PROVIDING FOR TEMPORARY CLOSURE; PROVIDING FOR A RE-INSPECTION FEE AFTER TEMPORARY CLOSURE; PROVIDING FOR OPERATING RECORDS; PROVIDING FOR REGISTRATION OF POOL OPERATOR; SPECIFYING PENALTY AND ENFORCEMENT PROVISIONS; PROVIDING FOR A FEE SCHEDULE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Rockwall finds and determines that regulation of the design, construction, operation and maintenance of public swimming pools and spas within the City of Rockwall is desirable and necessary for the health, safety and welfare of the residents of Rockwall;

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

**Section 1.** That all the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**Section 2.** That Chapter 6 Buildings and Building Regulations of the Code of Ordinances shall be amended in Article VI Swimming Pool Code by the addition of Sec. 6-103, which shall read in its entirety as follows:

**“§6-103 PUBLIC SWIMMING POOL AND SPA DESIGN,  
CONSTRUCTION, OPERATION AND MAINTENANCE**

**§A. General Provisions**

- (a) This article shall be known as “The City of Rockwall Public Swimming Pool and Spa Code.”
- (b) This article shall apply to the design, construction, operation and maintenance of all swimming pools and spas as defined in the Texas Department of Health, “Standards for Public Swimming Pools and Spas,” TAC 25-I-265-L, including all facilities incident thereto.
- (c) The purpose of this article shall be to control and regulate the design, construction, operation, and maintenance of all public swimming pools and spas within the City; to provide for the issuance of operating permits, and to provide penalties and remedies so that health and safety hazards may be minimized.
- (d) The intent of this article shall be to address clean, healthful, and safe practices for all public swimming pools and spas, which may be constructed and operated within the City.
- (e) This article shall apply to the design, construction, operation and maintenance of all non-residential swimming pools and spas, which may be located within Rockwall regardless of when the swimming pool or spa was constructed.

**B. State Rules on Design Standards for Public Swimming Pool and Spa Construction Adopted**

The Texas Administrative Code, Title 25. Health Services, Part 1. Texas Department of Health Chapter 265-General Sanitation, Subchapter L - “Standards for Public Pools and Spas”, a copy of which is on file in the office of the City Secretary of the City of Rockwall, Texas, is hereby adopted and incorporated herein as if the same was copied in its entirety and the provisions thereof shall be controlling within the City of Rockwall, Texas, except as amended herein.

**C. Definitions**

For the purpose of this chapter, the terms used herein shall be defined as follows, and any words not herein defined shall be construed in the context used and by ordinary interpretation:

1. Certified Pool Operator (CPO) any individual who has taken and successfully passed a certified pool operator course and

who has in their possession a certificate or documentation of such current status.

2. Certified Pool Operator Course shall mean a course accredited by the Texas Department of Health as provided in 25 TAC Section 265.203.
3. Remodel shall mean the replacement of or modification to a public swimming pool or spa, structure, circulation system and/or its appurtenances such as the design, configuration and/or operating characteristics, but does not include normal maintenance and repair. If the work involves the replacement of equipment which had been previously approved, but that does not meet the standards set forth by this ordinance, then the equipment or structure must be designed and constructed to comply with all provisions of this ordinance.
4. Residual Chlorine level shall mean the amount of measurable chlorine remaining in the water following chlorination and is composed of the following components:
  - (a) Free available residual chlorine level shall mean the amount of chlorine which is available to inactivate microorganisms and which has not reacted with ammonia, nitrogenous material and other material in swimming pool water.
  - (b) Combined residual chlorine level (also called "chloramine") shall mean the amount of chlorine which has reacted with ammonia and other nitrogenous material to form chloro-ammonia compounds.
  - (c) Total residual chlorine level shall mean the arithmetic sum of free available residual chlorine and combined residual chlorine.
5. Shall is mandatory and not merely directory; Should is recommendatory; and May is permissive.
6. Superchlorinate shall mean the addition to swimming pool water of an amount of chlorine sufficient to produce a free available residual which is at least equal to ten times the amount of combined residual chlorine plus the required minimum level of free available residual chlorine in order to

oxidize the ammonia and nitrogenous materials which may be dissolved in the public swimming pool or spa water.

**D. Enforcement of These Provisions**

The enforcement of the rules and the provisions of this section shall be by the City Manager, or his or her duly appointed representative. Any references in the rules to “regulatory authority” or “local regulatory representative” shall mean the City Manager, or his or her duly appointed representative.

**E. Issuance of Operating Health Permit**

- (a) No owner, operator or person in control of a public swimming pool or spa shall allow anyone to use it unless a valid health permit to operate said swimming pool or spa has been applied for and obtained from the City regulatory authority. Such permit shall be valid for one year from the date of issuance unless suspended or revoked for cause as hereinafter prescribed.
- (b) Applications for permit to operate a swimming pool or spa shall be made to the City regulatory authority on forms provided by that department. The applicant shall certify that he or she is knowledgeable about and understands and is capable of operating the swimming pool for which the operating permit is requested.
- (c) Prior to the issuance of a health permit for a public swimming pool or spa at least one pre-opening inspection must be conducted. No operator of a permitted public swimming pool or spa shall reopen after having been closed for thirty (30) days or longer, without having first obtained a pre-opening inspection. This inspection is to verify that the pool or spa is in accordance with all approved plans and requirements, and the water chemistry meets or exceeds the minimum requirement set forth by this ordinance, prior to its opening and use by the public.

**F. Permit Fees, Exemptions**

- (a) No operating permit shall be issued for a public swimming pool or spa until the applicant has paid the permit fees as provided in Exhibit A.
- (b) All permit fees shall be paid to the regulatory authority.

- (c) All permits expire one year from the date of issuance.

**G. Certified Pool Operator Required**

(a) Employment of Certified Pool Operator

- (1) No person shall open a public swimming pool or spa for use on or after 90 days after the effective date of this ordinance, unless the person shall have employed a registered Certified Pool Operator.
- (2) A registered Certified Pool Operator must be employed by the permitted facility at all times, except as otherwise permitted within this ordinance.

(b) Duties of the Certified Pool Operator

- (1) The Certified Pool Operator shall be responsible for the sanitation, safety, and proper maintenance of the pool or spas and all associated physical and mechanical equipment.
- (2) The Certified Pool Operator shall be responsible for the maintenance of all records and logs as required under this ordinance.

(c) Registration with the City

- (1) The certified pool operator shall register with the regulatory authority, submit the required application, pay the required fee as provided in this ordinance, and provide acceptable documentation of completion of a Certified Pool Operator course.
- (2) A certified pool operator shall prominently post their certified pool operators certification at the permitted facility, as well as the public swimming pool and spa operating permit issued by the regulatory authority.

(d) Registered Certified Pool Operator Replacement

- (1) A permitted public swimming pool or spa shall notify the regulatory authority, in writing, within seven (7)

days of the effective date of termination or change of the certified pool operator; and

- (2) A permitted public swimming pool or spa shall employ another certified pool operator within fourteen (14) days of the effective date of termination or change of the previous certified pool operator.

## **H. Pool and Spa Construction and Remodeling**

- (a) Permit Required. No person shall hereafter construct or remodel a public swimming pool or spa without having first obtained a building permit. Prior to the issuance of a building permit for the construction of a new public swimming pool or spa, or the remodel of an existing public swimming pool or spa, properly prepared plans and specifications for such construction or remodeling shall be submitted to the regulatory authority for review and approval
- (b) Plans submitted for review must contain the following:
  - (1) Three full sets of blue prints must be submitted for review.
  - (2) Plans must be drawn to scale, and include a top view and a side cross section view.
  - (3) All dimensions and specifications must be referenced on the plans, including surface area of the pool, spa, and deck, in square feet, and total volume of pool and/or spa in cubic feet and gallons, as well as turn-over rates, type of disinfection, etc.
  - (4) All plans submitted shall bear the stamp of the designing professional engineer or professional architect, along with a statement by the designing professional engineer or professional architect that the plans submitted are designed in compliance with all state and local codes relating to the design, construction, and operation of the public swimming pool or spa in effect at the time of the submission of plans.
  - (5) Plans must contain detailed drawings, descriptions and specifications to include all of the following:

- (a) Type, location, and number of drains (outlets)
  - (b) Type, location, and number of inlets (jets)
  - (c) Type, location, and number of skimmer drains
  - (d) Type, location, and number of filters
  - (e) Type, location, and number of pumps
  - (f) Type, location, and number of lights
  - (g) Type, location, and number of Depth Markers
  - (h) Entries into pool/spa (steps, stairs, ladders, etc.)
  - (i) Type and location of anti-backflow protection, and its location, installed between the City potable water supply and the pool or spa
  - (j) Type and number of chemical feeders (sanitizer dispensers-chlorinators, brominators, etc.)
  - (k) Locations of all gauges, flowmeters, etc.
  - (l) Diving boards
  - (m) Life guard stands (if required) and life saving equipment
  - (n) Bath house and associated appurtenances
  - (o) Fencing, to include materials, height, layout, gates, hardware, etc.
  - (p) Telephone
  - (q) Clock (by spa)
  - (r) Description, location, and drawings of all required signage
- (c) Inspections. Prior to the use of a newly constructed or remodeled swimming pool or spa at least one pre-opening

inspection must be conducted by the regulatory authority. This inspection is to verify that the pool or spa is constructed in accordance with all approved plans and requirements, and the water chemistry meets or exceeds the minimum requirement set forth by this ordinance, prior to its opening and use by the public.

- (d) Fee. An appropriate permit fee shall be assessed in accordance with the provisions of Exhibit A.

## **I. Operation of a Public Swimming Pool or Spa**

- (a) If upon inspection at any time the public swimming pool or spa is found not to be constructed in accordance with approved plans, the public swimming pool or spa shall cease operations until adequate evidence is provided to show compliance with this ordinance.
- (b) A manager of operations, a manager of the premises on which a public swimming pool or spa is located, the owner of a public swimming pool or spa, or the Certified Pool Operator on duty shall not:
  - (1) knowingly permit a condition to exist that endangers the life, health, or safety of a swimmer or that violates a provision of this article;
  - (2) knowingly permit a person to occupy a pool or spa who is known to be or suspected of being infected with a transmissible condition of communicable disease;
  - (3) fail to post any of the required placards or signage containing pool and/or spa regulations and instructions in conspicuous places within a pool or spa area or enclosure, as required.
- (c) Foreign Matter. Every public swimming pool and spa shall be free of scum and foreign matter including sediment, dirt, slime, algae, and all other foreign matter that might be conducive to the transmission of disease. Debris shall be removed daily.



**J. Manual Application of Chemicals**

- (a) Whenever it is necessary to manually add any chemicals directly to the pool or spa waters, bathers shall be excluded from the pool or spa until the chemical is dissolved completely or completely diffused thoroughly throughout the swimming pool or spa water.

**K. Operational Records**

- (a) Proper operating, maintenance and test records shall be maintained for every public swimming pool or spa when in use, and shall be available for inspection by the regulatory authority upon request.
- (b) Operating records shall include daily figures for at least the following items:
  - (1) Disinfectant residual readings; e.g., free available residual chlorine and total residual chlorine, or equivalent;
  - (2) pH readings;
  - (3) Amounts of chemicals used;
  - (4) Cyanuric Acid (if used);
  - (5) Total Alkalinity;
  - (6) Readings of any other chemical tests;
  - (7) Water temperature for heated pools and spas;
  - (8) Clarity of the swimming pool water at the deepest point;
  - (9) Maintenance and servicing of equipment; and
  - (10) Space for general comments.
- (c) Calcium hardness shall be tested and recorded once a month.

## **L. Requirement of Bathers**

No person shall be allowed the use of a public swimming pool or spa if he/she has an infectious/communicable disease, open cuts, wounds, burns, etc., engages in rough or inappropriate activity; brings animals (except guide animals assisting the disabled) into the pool area; purposely spits or blows the nose into the pool/spa; misuses lifesaving equipment; or brings glass (except eyeglasses) into the pool/spa area.

## **M. Temporary Closure of Swimming Pool/Spa.**

- (a) If it is determined by the regulatory authority that the operation or maintenance of the public pool or spa facility constitutes a serious health or safety hazard as specified in Section 265 of TAC 25 for the user(s), the regulatory authority shall require closure of the pool or spa facility immediately. A public swimming pool or spa facility 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 re-inspection fee paid, and a re-inspection conducted by the regulatory authority to verify that all hazardous conditions have been eliminated, such as:
- (1) The amount of a residual disinfectant is less than, or greater than, the minimum and/or maximum amounts specified in Figure 25 TAC, Section 265.204 (a).
  - (2) The pH of the swimming pool/spa water does not comply with the provisions in Figure 25 TAC Section 265.204 (a).
  - (3) If any of the main drain covers are loose, missing, damaged and/or of a non- approved anti-vortex design.
  - (4) The clarity of the water does not comply with the provisions in Figure 25 TAC, Section 265.204 (a).
  - (5) The temperature of a heated pool is greater than 98 degrees Fahrenheit or spa water is greater than 104 degrees Fahrenheit.
  - (6) There is malfunction or non-function of the re-circulation system.

- (7) If the public swimming pool or spa yard enclosure is found to not be in compliance with the provisions of Section 265.200 of TAC 25.
  - (8) The swimming pool or spa does not conform to the construction permit plans.
  - (9) There is any other condition, which may endanger the health, safety, or welfare of persons using the swimming pool.
- (b) Failure to pay the required re-inspection fees in the instances noted above will result in the immediate suspension of the public swimming pool or spa's permit to operate, and the facility will be ordered to cease operation immediately. The public swimming pool or spa shall remain closed until the violation(s) are corrected, all required fees are paid, and a re-inspection is conducted.
- (c) The re-inspection fee shall be assessed in accordance with the provisions of this ordinance.

## **N. Suspension of Operating Permit**

- (a) If the regulatory authority determines that the permitted public swimming pool or spa cannot be properly maintained at the required disinfectant levels, pH levels, water testing, record maintenance, and/or the employment of a full time staff member who is a Certified Pool Operator (CPO) any time the facility is open for use, the regulatory authority may suspend the operating permit and order the permit holder to equip or retrofit the pool or spa with a fully automated chemical control system, capable of both monitoring and dispensing sanitizing chemicals and pH maintenance chemicals into the pool or spa, and maintaining those levels at the accepted levels set forth by this ordinance.
- (b) If the regulatory authority determines that the operation or maintenance of any public swimming pool or spa is such as to constitute an imminent hazard to the health and safety of the public, the operating permit shall be suspended and the swimming pool or spa shall be closed immediately and shall remain closed until the necessary remedial action has been completed, the appropriate re-inspection fee paid, and a follow up inspection has been conducted by the regulatory authority. At that time, an operating permit may be reissued.

## **O. Closed Swimming Pools and Spas.**

- (a) Upon an order of closure, the public pool or spa operator shall post signs at every entrance that is accessible to patrons, or at least 2 signs at opposite ends of the pool or spa, that state "Pool Closed" or "Spa Closed" in at least 4 inch minimum high letters. No individual or person shall enter a public swimming pool or spa, or its enclosure, that has been closed by the regulatory authority or its operator, when such signs are posted.
- (b) The operator of a pool or spa closed by order of the regulatory authority shall secure the pool or spa yard with an enclosure adequate to exclude any unauthorized entry.
- (c) The regulatory authority shall have the right to lock and/or chain entrances to public swimming pools and/or spas if, in the regulatory authority's opinion, the facility is dangerous to

public health, the operator is not enforcing closure and/or bathers are disregarding warnings.

- (d) The regulatory authority shall have the right to post signs at a public swimming pool or spa stating that the facility is closed. A person commits an offense if he covers, removes, damages, or alters any sign or notice posted by order of the regulatory authority.

**P. Abandoned, Neglected, Inoperable, and Hazardous Public Swimming Pools and Spas.**

- (a) No owner, operator or person in control of any public swimming pool or spa, permitted or unpermitted, shall allow the pool or spa to remain in a condition so as to create a public health hazard or a nuisance to the general public, regardless if the pool is open, closed, not in operation, or abandoned.
- (b) The following conditions are hereby declared a public nuisance:
  - (1) Any time a public swimming pool or spa (containing any amount of water) shall not maintain water clarity so all parts of the pool of spa bottom can be easily seen.
  - (2) Any time a public swimming pool or spa fails to maintain an adequate fence or barrier around the pool or spa that complies with state law.
  - (3) Any time a public swimming pool or spa is not adequately secured to prevent unauthorized entry.
  - (4) Any time a public swimming pool or spa shall become a harborage or breeding place for insects and/or rodents.
- (c) When the regulatory authority determines that an imminent risk to public health exists, the regulatory authority shall have the authority, but not an obligation, to enter private property, without notice, to abate a public nuisance thereon by erecting a fence or barrier adequate to prevent entry to a public swimming pool or spa. The regulatory authority shall be able to recover its costs expended to abate the nuisance, including placing a lien upon the real property affected, only

after compliance with the procedures provided in this Code for the abatement of dangerous structures.

**Q. Additional Offense: Interfering With or Hindering the Regulatory Authority**

It shall be unlawful for any permit holder, owner, certified pool operator, manager, person-in-charge, other employee, or user of a public swimming pool or spa to interfere with or hinder the regulatory authority in the exercise of its duties under this Ordinance.

**R. Penalty and Enforcement Provisions**

- (a) Any person violating or failing to comply with any provision or requirement of this ordinance, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000.00, such offenses being violations of the health and safety ordinance of the City. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur. This section shall be in addition to and cumulative of the provisions for abatement of the nuisance by the city and charging the cost of same against the owner of the property.
- (b) Notwithstanding the foregoing, any violation of any provision of this ordinance which constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the City for such purpose.
- (c) In addition to any other remedies or penalties contained herein, the City of Rockwall may enforce the provisions of this ordinance pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which chapter provides for the enforcement of municipal ordinances.
- (d) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this ordinance.”

**Section 3.** If any section, article, paragraph, sentence, clause, phrase or word in this ordinance or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares

it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**Section 4.** All ordinances, orders, or resolutions heretofore passed and adopted by the City Council of the City of Rockwall, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

**Section 5.** That this ordinance shall become effective immediately upon passage and approval and publication as set forth in the City Charter.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, this 7<sup>th</sup> day of July, 2003.**

**ATTEST:**

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**Ken Jones, Mayor**

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**Dorothy Brooks, City Secretary**

**APPROVED AS TO FORM:**

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**Pete Eckert, City Attorney**

**1<sup>st</sup> Reading: June 16, 2003**

**2<sup>nd</sup> Reading: July 7, 2003**

**Public Swimming Pool and Spa Operating Permit Fee**

**EXHIBIT A**

Each separate public swimming pool and spa operating within the corporate limits of the City of Rockwall, shall pay the following fees, except that splashers and/or wading pools operating in conjunction with a Class C or Class D pool and located at the same address or physical location shall not be charged a separate annual permit fee:

<b>1<sup>st</sup> Swimming Pool</b>	<b>\$150.00 (Annually)</b>
<b>2<sup>nd</sup> and subsequent swimming pools</b>	<b>\$75.00 (Annually)</b>
<b>Free-Standing Spa</b>	<b>\$25.00 each (Annually)</b>
<b>Re-inspection Fee for temporary closure</b>	<b>\$50.00</b>
<b>Certified Pool Operator's Registration:</b>	<b>\$10.00 per operator (upon</b>
<b>    Initial/Renewal/New Employee</b>	<b>expiration of City registration or</b>
	<b>upon expiration of an approved</b>
	<b>Pool Operator's Certification)</b>