

ORDINANCE NO. 20200604-051

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-12 TO ADOPT THE 2018 INTERNATIONAL SWIMMING POOL AND SPA CODE AND LOCAL AMENDMENTS; REPEALING AND REPLACING CHAPTER 10-7 (*SWIMMING POOLS AND SPAS*); AND CREATING OFFENSES AND PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Chapter 25-12 (*Technical Codes*) is amended to add Article 14 (*Swimming Pool and Spa Code*) to read as follows:

ARTICLE 14. SWIMMING POOL AND SPA CODE

§ 25-12-301 INTERNATIONAL SWIMMING POOL AND SPA CODE.

- (A) The International Swimming Pool and Spa Code and Appendices 2018 Edition (“2018 Swimming Pool and Spa Code”), published by the International Code Council is adopted and incorporated by reference into this section with the deletions in Subsection (B) and amendments in Section 25-12-303 (*Local Amendments to the 2018 Swimming Pool and Spa Code*).
- (B) The following sections of the 2018 Swimming Pool and Spa Code are deleted:

101.1	102.9	103.1	103.3	105.4
105.5.3	105.5.4	105.6.2	105.6.3	107.4
107.5	305.2.7			
- (C) The title of Section 103 (*Department of Building Safety*) is amended as set forth in Section 25-12-303 (*Local Amendments to the 2018 Swimming Pool and Spa Code*).
- (D) Section 202 (Definitions) is amended as set forth in Section 25-12-203 *Local Amendments to the 2018 Swimming Pool and Spa Code*).
- (E) The city clerk shall retain a copy of the 2018 Swimming Pool and Spa Code with the official ordinances of the City of Austin.
- (F) References.

- (1) The provisions of the International Plumbing Code and the Plumbing Code apply to this code. The Plumbing Code supersedes the International Plumbing Code to the extent of conflict.
- (2) The provisions of the International Mechanical Code and the Mechanical Code apply to this code. The Mechanical Code supersedes the International Mechanical Code to the extent of conflict.

§ 25-12-302 CITATIONS TO THE 2018 SWIMMING POOL AND SPA CODE.

In the City Code, “Swimming Pool and Spa Code” means the 2018 Swimming Pool and Spa Code adopted and amended by Section 25-12-301 (*International Swimming Pool and Spa Code*) and as amended by Section 25-12-303 (*Local Amendments to the Swimming Pool and Spa Code*). In this article, “this code” means the Swimming Pool and Spa Code.

§ 25-12-303 LOCAL AMENDMENTS TO THE 2018 SWIMMING POOL AND SPA CODE.

The following provisions are local amendments to the 2018 Swimming Pool and Spa Code. Each provision of this section is a substitute for any identically numbered provision of the 2018 Swimming Pool and Spa Code deleted by Section 25-12-301(B) (*International Swimming Pool and Spa Code*) or is an addition to the 2018 Swimming Pool and Spa Code:

101.2.2 Public Swimming Pool Compliance with State Pool and Spa Regulations. A public swimming pool must be constructed, maintained, and operated as required by the Swimming Pool and Spa Code and the State Pool and Spa Regulations.

102.9 Other Laws.

102.9.1 Except as provided in 102.9.2, the provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

102.9.2 The provisions of this code control over City Code Sections 25-12-242, R326.2.1 (*Barrier height and clearances*).

102.9.3 In the City Code, a reference to “Texas Department of Health Standards for Swimming Pools and Spas” now means the State Pool and Spa Regulations.

SECTION 103 AUTHORITY AND ACCOUNTABLE OFFICIAL.

103.1 Authority. The health authority administers, implements, and enforces the requirements in this code that are applicable to a public swimming pool. The building official administers, implements, and enforces the requirements in this code that are applicable to a residential swimming pool.

103.1.1 Accountable Official. The health authority and the building official are, collectively, the accountable official.

103.3 Designees. The accountable official may designate employees to carry out their responsibilities as needed. Such employees shall have powers as delegated by the accountable official. The accountable official may authorize approved agencies, registered design professionals, or other qualified individuals to conduct plan review and inspect for compliance with this code.

104.2.1 Construction Plans.

- (A) In this section, director means the director of the Development Services Department.
- (B) A person may not construct or structurally alter a public swimming pool unless the construction plans are approved by the director and the health authority.
- (C) A person must submit construction plans to construct or alter a public swimming pool to the director and health authority.
- (D) Construction plans must comply with the requirements of the Building Criteria Manual and must:
 - (1) propose the design for the public swimming pool;
 - (2) describe the construction materials; and
 - (3) include the mechanical plans, including a description of any equipment makes and models.
- (E) Construction plans are approved if:
 - (1) the director finds that the construction plans comply with Title 25 (*Land Development*); and
 - (2) the health authority finds that the construction plans comply with this code and state regulations.

105.5.3 Time Limits. City Code Chapter 25-12, Article 13 (*Administration of Technical Codes*) establishes permit application time limits and requirements applicable to permit expiration and reactivation, including a review fee for expired permits.

105.6.2 Fees. Fees applicable to this code are set by separate ordinance.

105.6.3 Fee Refunds. The Building Criteria Manual establishes applicable standards for a refund of a fee.

107.4 Offense and Penalty. A person who violates a provision of this code commits a separate offense for each day the violation continues and is subject to the penalty prescribed by Section 25-1-462 (*Criminal Enforcement*).

107.5 Stop Work Orders. The building official may issue a stop work order in accordance with Section 25-1-441 (*Stop Work Order*).

SECTION 202 DEFINITIONS

202.1 Supplemental Definition. The definitions in this subsection apply throughout this code and supplement the definitions found in Section 202 (*Definitions*) of the 2018 Swimming Pool and Spa Code.

HEALTH AUTHORITY. The definition included in Section 1-1-2 (*General Definitions*) applies in this code.

STATE POOL AND SPA REGULATIONS. The regulations adopted by the State of Texas applicable to swimming pools and spas. The regulations, as amended from time to time, include:

- (a) Texas Health and Safety Code Chapter 757 (*Pool Yard Enclosures*);
- (b) Texas Health and Safety Code Sections 341.064 (*Swimming Pools and Bathhouses*), 341.081 (*Authority of Home-Rule Municipalities*), 341.082 (*Appointment of Environmental Health Officer in Certain Home-Rule Municipalities*), 341.091 (*Criminal Penalty*), 341.092 (*Civil Enforcement*), and 341.0695 (*Interactive Water Features and Fountains*);
- (c) Texas Administrative Code Title 25, Part 1, Chapter 265, Subchapter L (*Standards for Public Pools and Spas*) and Subchapter M (*Public Interactive Water Features and Fountains*); and
- (d) Swimming Pool and Spa Code.

202.2 Amended Definitions. The definition in this subsection applies throughout this code, including the 2018 Swimming Pool and Spa Code.

CODE OFFICIAL. The accountable official charged with the administration and enforcement of this code, or a duly authorized representative.

305.2.7 Chain Link Fence Dimensions and Requirements.

- (A) The opening formed by a chain link fence may not exceed 1 ¾ inches (44 mm).
- (B) For a chain link fence with slats to reduce the openings that are fastened at the top and bottom, the opening may not exceed 1 ¾ inches (44 mm).
- (C) A chain link fence shall be secured to a top rail and a bottom rail or tension wire.
- (D) A tension wire shall be installed in a manner that prevents a sphere with a four-inch diameter from passing under the fence if a 100-pound upward force is applied to the fence's mid-span areas.
- (E) The height of a chain link fence shall be at least 60 inches.
- (F) A chain link fence shall be designed to meet minimum wind speed requirements.

PART 3. City Code Chapter 10-7 (*Pools and Spas*) is repealed and replaced to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

§ 10-7-1 APPLICABILITY.

This chapter applies in the zoning jurisdiction.

§ 10-7-2 DEFINITIONS.

A term defined in Chapter 25-12, Article 14 (*Swimming Pool and Spa Code*) has the same meaning in this chapter.

ARTICLE 2. REQUIREMENTS.

§ 10-7-21 WATER QUALITY TESTS AND REPORTS.

- (A) The operator of a public swimming pool shall test the water quality and report the results as required by state pool and spa regulations.
- (B) In addition to the requirement of Subsection (A), for a Class C or Class D public swimming pool the operator shall test the water quality and record the results no less often than:
 - (1) each day of operation, for a public swimming pool that is in use not more than one day a week; or
 - (2) for a public swimming pool that is in use more than one day a week:
 - (a) once a day, two days a week, if the operator is on-site less than 32 hours a week; or
 - (b) once a day, four days a week, if the operator is on-site 32 hours or more a week.
- (C) The operator of the public swimming pool shall:
 - (1) retain the test result records for at least one year; and
 - (2) provide the test result records to the health authority when requested by the health authority.

§ 10-7-22 INSPECTIONS.

- (A) The health authority may inspect a public swimming pool at any reasonable time.
- (B) If access to a public swimming pool is restricted by a locking mechanism, the operator shall provide the health authority with a key, access card, lock combination, or other means to unlock and enter the pool area.

§ 10-7-23 OPERATING PERMIT REQUIRED.

- (A) A person may not operate or exercise control over a public swimming pool without an operating permit.

- (B) A person who seeks to operate or exercise control over a public swimming pool must file an application for an operating permit with the health authority annually. The application must include:
- (1) the operator's name and address;
 - (2) the location of the pool; and
 - (3) other information as required by the health authority.
- (C) Except as provided in Section 10-7-24 (*Denial Or Suspension Of Operating Permit; Appeal*), the health authority shall issue an operating permit if the public swimming pool complies with the requirements of this chapter.
- (D) An operating permit is not transferable.
- (E) The operator shall retain the operating permit at the public swimming pool and permit the health authority to inspect it at any reasonable time.

§ 10-7-24 DENIAL OR SUSPENSION OF OPERATING PERMIT; APPEAL.

- (A) The health authority may deny an application for an operating permit or suspend an operating permit if:
- (1) the public swimming pool does not comply with the requirements of this chapter;
 - (2) the health authority determines that the public swimming pool is hazardous to pool users or the public; or
 - (3) the operator does not:
 - (a) pay the permit fee;
 - (b) provide accurate operational records to the health authority; or
 - (c) permit the health authority to inspect the public swimming pool.

- (B) After determining that public swimming pool does not comply with this chapter or that the operating permit should be suspended, the health authority may:
 - (1) close the pool;
 - (2) notify the operator of the closure;
 - (3) place a sign at the pool indicating the closure; and
 - (4) lock the entrance to the pool area.
- (C) If the health authority suspends an operating permit, the health authority shall give written notice to the permit holder or person in charge that:
 - (1) the operating permit is suspended;
 - (2) the suspension begins when the notice of suspension is served; and
 - (3) the permit holder may file a written request for a hearing not later than the 10th day after the date the notice of suspension is served.
- (D) If a timely hearing request is filed, the health authority shall hold a hearing on the operating permit suspension within 10 days after hearing request is filed.
- (E) If a timely hearing request is not filed, the suspension continues in effect.
- (F) The health authority may reinstate an operating permit if the reason for suspension no longer exists.

ARTICLE 3. OFFENSES.

§ 10-7-31 OFFENSES.

- (A) A person who violates this chapter commits a Class C misdemeanor punishable by:
 - (1) a fine not to exceed \$500; or
 - (2) if the person acts with criminal negligence, a fine not to exceed \$2,000.

(B) Each day that a violation occurs is a separate offense.

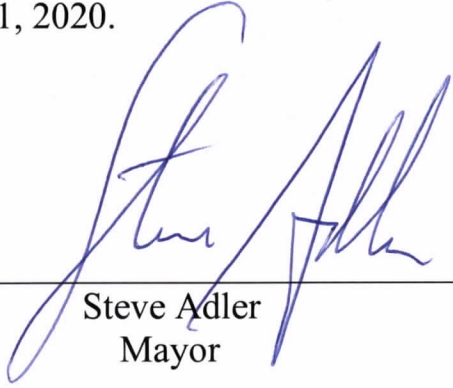
(C) Proof of a higher degree of culpability than criminal negligence constitutes proof of criminal negligence.

PART 4. This ordinance takes effect on September 1, 2020.

PASSED AND APPROVED



_____, June 4, 2020

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Steve Adler
Mayor

APPROVED:


Anne L. Morgan
City Attorney
by: 

ATTEST:


Jannette S. Goodall
City Clerk