

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, REPEALING ORDINANCE NOS. 06-02-14 AND 18-01-02; AMENDING THE FRISCO CODE OF ORDINANCES, ORDINANCE NO. 06-3-31, AS AMENDED, CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS), ARTICLE IV (TECHNICAL CODES), DIVISION 11 (SWIMMING POOLS) AND DIVISION 12 (PUBLIC INTERACTIVE WATER FEATURES AND FOUNTAINS); ADOPTING THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES STANDARDS FOR PUBLIC SWIMMING POOLS AND SPAS AS CODIFIED IN THE TEXAS ADMINISTRATIVE CODE, TITLE 25 (HEALTH SERVICES), PART 1 (DEPARTMENT OF STATE HEALTH SERVICES), CHAPTER 265 (GENERAL SANITATION), SUBCHAPTER L (PUBLIC SWIMMING POOLS AND SPAS), SAVE AND EXCEPT THE DELETIONS AND ADDITIONS SET FORTH IN THIS ORDINANCE; ADOPTING THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES STANDARDS FOR INTERACTIVE WATER FEATURES AND FOUNTAINS AS CODIFIED IN THE TEXAS ADMINISTRATIVE CODE, TITLE 25 (HEALTH SERVICES), PART 1 (DEPARTMENT OF STATE HEALTH SERVICES), CHAPTER 265 (GENERAL SANITATION), SUBCHAPTER M (PUBLIC INTERACTIVE WATER FEATURES AND FOUNTAINS), SAVE AND EXCEPT THE DELETIONS AND ADDITIONS SET FORTH IN THIS ORDINANCE; ADOPTING THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES STANDARDS FOR ARTIFICIAL SWIMMING LAGOONS AS CODIFIED IN THE TEXAS ADMINISTRATIVE CODE, TITLE 25 (HEALTH SERVICES), PART 1 (DEPARTMENT OF STATE HEALTH SERVICES), CHAPTER 265 (GENERAL SANITATION), SUBCHAPTER K (ARTIFICIAL SWIMMING LAGOONS), SAVE AND EXCEPT THE DELETIONS AND ADDITIONS SET FORTH IN THIS ORDINANCE; ADOPTING REGULATIONS FOR THE OPERATION AND MAINTENANCE OF ALL PUBLIC AND SEMI-PUBLIC SWIMMING POOLS, ARTIFICIAL SWIMMING LAGOONS AND INTERACTIVE WATER FEATURES AND FOUNTAINS WITHIN THE CITY OF FRISCO; PROVIDING FOR A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous, beneficial and in the best interest of the citizens of the City of Frisco, Texas ("Frisco") to amend the Frisco Code of Ordinances, Ordinance No. 06-03-31, as amended ("Code of Ordinances"), Chapter 18 (Buildings and Building Regulations), Article IV (Technical Codes), Division 11 (Swimming Pools) and Division 12 (Public Interactive Water Features and Fountains), by adopting the Texas Department of State Health Services Standards for Public Swimming Pools and Spas, the Texas Department of State Health Services Standards for Artificial Swimming Lagoons and the Texas Department of State Health Services

Standards for Interactive Water Features and Fountains, save and except the deletions and additions set forth in this Ordinance; and

WHEREAS, the City Council finds that in order to most effectively make the deletions and additions necessary to the Frisco Code of Ordinances, it is in the best interest of the citizens of Frisco to repeal, in their entirety, Ordinance Nos. 06-02-14 and 18-01-02, and to replace the same with this Ordinance.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Repeal of Ordinance Nos. 06-02-14 and 18-01-02. Ordinance Nos. 06-02-14 and 18-01-02 are hereby repealed, in their entirety, and replaced by this Ordinance. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance at which time Ordinance Nos. 06-02-14 and 18-01-02 shall be repealed. Such repeal shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of Ordinance Nos. 06-02-14 and 18-01-02 occurring before the effective date of this Ordinance.

SECTION 3: Purpose. The purpose of these rules is to, among other things, safeguard public safety and provide patrons pools, interactive water features and fountains and artificial swimming lagoons that are safe to use within reasonable means. These rules and regulations are considered and found to be good public health engineering and safety practices

SECTION 4: Amendment to Chapter 18 (Buildings and Building Regulations), Article IV (Technical Codes), Division 11 (Swimming Pools) of the Frisco Code of Ordinances. Chapter 18 (Buildings and Building Regulations), Article IV (Technical Codes), Division 11 (Swimming Pools) of the Frisco Code of Ordinances is hereby amended for the sole purpose of adopting new pool code regulations as set forth in the Texas Department of State Health Services Standards for Public Swimming Pools and Spas, adopted by the Texas Department of State Health Services Standards in Title 25 (Health Services), Texas Administrative Code, Part 1 (Department of State Health Services), Chapter 265 (General Sanitation), Subchapter L (Public Swimming Pools and Spas), which establishes regulations for the design, construction, operation, repair and maintenance of all public and semi-public swimming pools, save and except the deletions and additions set forth below (the “Texas Department of State Health Services Pool Rules”). The Texas Department of State Health Services Pool Rules are made a part of this Ordinance as if fully set forth herein. Copies of the Texas Department of State Health Services Pool Rules are on file in the office of the City Secretary of Frisco being marked and designated as the Texas Department of State Health Services Pool Rules, published by the Texas Department of State Health Services, General Sanitation Division.

The following deletions and additions to the TAC Title 25, Part 1 Chapter 265, Subchapter L (Public Swimming Pools and Spas) are hereby approved and adopted (deletions are evidenced by

~~strikethrough~~ and additions are underlined)¹:

Rule § 265.182 Definitions is modified as follows:

...

- (58) Local regulatory authority - ~~A county, municipality, or other political subdivision of the state.~~ The City of Frisco, Texas.

...

- (80) Renovation – To return a pool or spa or any part of a pool or spa that may still be operational and functional, but that is outdated or has faded, declined, or deteriorated, to its former or original state, includes remodeling or rehabilitation of a pool or spa, and has the same meaning as the definition of alteration as found in the International Swimming Pool and Spa Code. Renovation of pool or spa shall not cause existing systems to become unsafe, unsanitary, or overloaded. Upon renovation of a pool or spa, a permit and inspection are required from the local regulatory authority and any repairs or renovations deemed necessary by the local regulatory authority shall be completed and approved prior to use of the pool or spa.

...

Rule § 265.183 Plans and Instructions is modified as follows:

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- (d) Plans and Permits. The local regulatory authority shall review all applicable permitting and plan submittal documents for new construction or renovation of pools, spas, water features and facilities in order to ensure compliance regarding enforcement issues. The local regulatory authority requires that a registered professional engineer approve the design, construction and renovation of pools, spas, water features, and facilities. Regardless of whether a regulatory authority requires plans or permits, pools and spas shall be designed, constructed, and operated in compliance with the Texas Department of State Health Services Pool Regulations (Rules) with these amendments.
- (e) Licensed Engineer Required. All Commercial Pools and Spas shall be designed by a registered Professional Engineer in the State of Texas and all drawings and documentation must be signed and sealed. Design Engineers must be registered with the City and provide proof of Professional Liability Insurance with a minimum coverage of one million dollars (\$1,000,000.00). The professional engineer shall

¹ Unless otherwise expressly provided herein, all phrases, words and/or terms used herein shall have the same meaning ascribed to the same in the Texas Administrative Code, Rule § 265.182 as amended (regardless of whether such phrases, words and/or terms are italicized herein). Other italicized and bold notations are provided throughout for informational purposes only. .

certify that pools, spas, water features, and facilities are designed, built, and operate in compliance with these rules and with applicable federal, state, and/or local regulatory requirements. Documentation shall include:

- (1) *Pre-Construction document signed and sealed referencing project name/address, pool builder name/address, and owner name/address. The Pre-Construction Certification requires the Design Engineer to certify that the submitted plans/blueprints and specifications for the described swimming pool(s) and/or spa(s) and/or other water/play features and associated facilities meet or exceed the requirements detailed in Rules 265.181 through 265.211, of the Texas Department of State Health Services Standards for Swimming Pools and Spas. Furthermore, the Design Engineer shall certify the accuracy of the calculations and design values. The Pre-Construction Certification shall include calculations and design values for pool volume (gals), turnover rate (hours), flow rate (gals per min.), total dynamic head (feet of head), maximum velocity in suction lines at designed flow (feet per sec.), maximum velocity in return lines at designed flow (feet per sec.), maximum velocity at main drain grate (min. 24" diagonal) at designed flow (feet per sec.), maximum flow through remaining drain grate with one main drain blocked (feet per sec.), maximum design flow rate at main drain with approved covers (gals. per min.), main drain cover approved flow rate (stamped on cover) (gals. per min.), maximum flow through remaining drain cover with one main drain blocked (gals. per min., feet per sec.), required skimmers (#), required return inlets (#) and bather loads (pool and spa) (#), lighting levels at pool water surface, deck area, and underwater (lumens/watts per square foot or lux).*
- (2) *Post-Construction document signed and sealed referencing project name/address, pool builder name/address, and owner name/address. The Post-Construction Certification requires the Design Engineer to examine and certify that the completed and installed swimming pool(s) and/or spa(s) and/or other water/play features and associated facilities at the described location meet or exceed the requirements detailed in Rules 265.181 through 265.211 and the Texas Department of State Health Services Standards for Swimming Pools and Spas, effective Jan 1, 2021. Furthermore, the Design Engineer shall certify the accuracy of the calculations and design values. The Pre-Construction Certification shall include calculations and design values for pool volume (gals), turnover rate (hours), flow rate (gals per min.), total dynamic head (feet of head), maximum velocity in suction lines at designed flow (feet per sec.), maximum velocity in return lines at designed flow (feet per sec.), maximum velocity at main drain grate (min. 24" diagonal) at designed flow (feet per sec.), maximum flow through remaining drain grate with one main drain blocked (feet per sec.), maximum design flow rate at main drain with approved covers (gals. per min.), main drain cover approved flow rate (stamped on cover) (gals. per min.), maximum flow through remaining drain cover with one main drain blocked (gals. per min., feet per sec.), required skimmers(#), required return inlets(#) and bather loads (pool and spa) (#) lighting levels at pool water surface, deck area, and underwater*

(lumens/watts per square foot or lux).

Rule § 265.185 Decks and Deck Equipment for Pools and Spas is modified as follows:

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(f) ...

- (8) Decks shall be sloped to effectively drain to perimeter areas or to deck drains. Drainage shall remove pool and spa splash water, deck cleaning water and rainwater without leaving standing water deeper than one-eighth (1/8) inch. Drains removing all water on deck(s) shall be routed to the storm sewer system or as otherwise approved by the then-current local Plumbing Code, as amended. Water from deck drainage shall not be mixed with pool or spa water.

...

Rule § 265.191 Filters for Pools and Spas is modified as follows:

...

- (b) Filters and media. All pool and spa filters and filter media, including alternative filter media, shall be certified, listed, and labeled to NSF/ANSI 50. Filters shall use the appropriate filter media within the size specifications as recommended by the filter manufacturer and NSF/ANSI 50. Any filtration system that does not discharge backwash, wash water, and drainage water into the sanitary sewer system through an approved p-trap is prohibited by the regulatory authority.

...

Rule § 265.192 Pumps and Motors for Pools and Spas is modified as follows:

...

- (c) Performance. A pump shall be provided for circulation of the pool and spa water. The pump shall be capable of providing the flow required for filtering the pool or spa water and filter cleaning, if applicable, against the total dynamic head developed by the complete system. Pump motors, when replaced, shall be of same size in horsepower. If replacement pumps are not the same size as the original approved design, a new post-construction certification document shall be submitted by a licensed design engineer with required calculations and design values specified showing compliance with this Rule.

....

Rule § 265.199 Wastewater Disposal for Pools and Spas is modified as follows:

- (a) Filter backwash wastewater disposal. Filter backwash, cartridge wash water, and drainage water that is not reused in the pool or spa shall be discharged or disposed of in accordance with the requirements of the TCEQ or local regulatory authority. All backwash systems shall be discharged to the sanitary sewer system through an approved p-trap unless prior approval for alternate disposal is obtained from the local regulatory authority.

...

Rule § 265.201 Safety Features for Pools and Spas is modified as follows:

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- (j) Signs for pools.

...

- (5) Safety signs for pools constructed on or after the effective date of this subchapter or safety signs that are replaced at pools constructed prior to the effective date of this subchapter shall be in compliance with Figure 25 TAC§265.201(j)(5), as amended.

Figure: 25 TAC §265.201(j)(5)

Required Pool Sign or Signs	Letter and Symbol Size
"WARNING-NO LIFEGUARD ON DUTY" (Where no lifeguard required or provided.)	4 inches
"NO DIVING" and International no diving symbol (Where no lifeguard required or provided.)	4 inches
"IN CASE OF EMERGENCY, DIAL 911"	4 inches
Precise Location of the Pool on or with the Emergency Phone (address, or directions, or GPS location, or building number, as appropriate)	Minimum 1-inch
Hours of Operation	Minimum 1-inch
Directions to and Location of Emergency Phone if Phone Not Visible in Pool Yard	Minimum 2-inches
Maximum User Load Limit	Minimum 2-inches
"PETS IN THE POOL/ <u>SPA OR ENCLOSURE</u> ARE PROHIBITED" ^[add]	Minimum 2-inches

"DO NOT SWIM IF YOU HAVE BEEN ILL WITH DIARRHEA WITHIN THE PAST 2 WEEKS"	Minimum 2-inches
"CHANGING DIAPERS WITHIN 6 FEET OF THE POOL IS PROHIBITED"	Minimum 2-inches
"GLASS ITEMS NOT ALLOWED IN THE POOL YARD"	Minimum 2-inches
"PERSONS UNDER THE AGE OF 14 MUST NOT BE IN THE POOL WITHOUT ADULT SUPERVISION"	Minimum 2-inches
"EXTENDED BREATH HOLDING ACTIVITIES ARE DANGEROUS AND PROHIBITED"	Minimum 2-inches

...

- (m) Emergency summoning device. A pool or spa shall have a minimum of one emergency telephone, emergency monitoring contact device, or alternative communication system that is capable of immediately summoning emergency services and that is readily accessible, within ~~200~~ 100 feet of the water, and is functioning at all times the pool or spa is open for use. Where a pool or spa has a seasonal operation schedule, the emergency summoning device shall be functioning 24 hours a day during the entire season the pool or spa will be in use. Clear operating instructions for the emergency summoning device shall be provided.

...

- (2) A telephone or emergency monitoring device shall not be answered by an on-site office. ~~The alternative communication system shall not be answered by an on-site office unless the alternative communication system complies with paragraph (5) of this subsection.~~

...

- (5) ~~An alternative communication system that contacts an on-site office may be used if the pool or spa is in a remote area with limited or delayed emergency medical services response times, and there are employees on-site that are trained and certified or licensed to perform emergency medical intervention when the pool or spa is open for use.~~

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...

Rule § 265.204 Dressing and Sanitary Facilities at Pools and Spas is modified as follows:

...

- (f) Number of fixtures at Class A, Class B, and Class C pools and spas constructed on

or after the effective date of this subchapter. The number of fixtures at Class A, Class B, and Class C pools and spas constructed on or after the effective date of this subchapter shall comply with Figure 25 TAC Sec. 265.204(f), in addition to the then-current adopted International Building Code as amended, and shall be based upon the total user loads found in Figure 25 TAC Sec 265.184(o)(2) Maximum number of users in Class B and Class C pools.

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Rule § 265.206 Water Quality at Pools and Spas.

...

(k) ...

...

- (6) Microbiological quality standards. Microbiological examination may be requested when deemed necessary by Frisco. These samples shall be examined in accordance with the procedures described in the latest edition of Standard Methods for the Examination of Water and Wastewater, or as amended, (APHA, AWWA, and WPCF). All related fees shall be paid by the owner/operator of the pool or spa.

...

Rule § 265.211 Enforcement is modified as follows:

(a) ...

- (1) If a person violates or causes, suffers, allows or permits a violation of Texas Health and Safety Code § 341.064, this subchapter or any of these rules, the department or local regulatory authority may, among other things and in accordance with Health and Safety Code § 341.092, assess civil penalties, seek injunctive relief, or both.
- (2) If inspections by the local regulatory authority determine that the operation or maintenance of the pool, spa, or facility constitutes a serious health or safety hazard for the user, the local regulatory authority may request voluntary immediate closure, perform involuntary closure, seek injunctive relief in district court, and/or use any other enforcement methods and/or remedies available. In addition, a person who violates or causes, suffers, allows or permits a violation of Texas Health and Safety Code, § 341.064, this subchapter or any of these rules may also be subject to a criminal penalty under Texas Health and Safety Code, § 341.091. The local regulatory authority may take any and all appropriate legal remedies

available to it including, but not limited to, immediately posting the pool closed. Whenever a pool voluntarily closes or is required to cease operation at any time, all access to the pool shall be restricted and a notice shall be posted at every entrance notifying the public that the pool is closed until further notice. Whenever a pool closes by mandate of the local regulatory authority or is required to cease operation, all access to the pool shall be restricted and a notice shall be posted at every entrance notifying the public that the pool is closed until further notice. Whenever a pool is involuntarily closed, operation can only be resumed when evidence is presented that all deficiencies that caused closure have been corrected and if explicitly authorized by the local regulatory authority. Such evidence may be in the form of a reinspection by the local regulatory authority, or by other evidence acceptable to the local regulatory authority.

- (3) The City of Frisco Chief Building Official, or his/her designee, shall be responsible for the enforcement of this Ordinance.

...

SECTION 5: Amendment to Chapter 18 (Buildings and Building Regulations), Article IV (Technical Codes), Division 12 (Public Interactive Water Features and Fountains) of the Frisco Code of Ordinances. Chapter 18 (Buildings and Building Regulations), Article IV (Technical Codes), Division 12 (Public Interactive Water Features and Fountains) of the Frisco Code of Ordinances is hereby amended for the sole purpose of adopting new regulations as set forth in the Texas Department of State Health Services Standards for Artificial Swimming Lagoons and Public Interactive Water Features and Fountains, adopted by the Texas Department of State Health Services Standards in Title 25 (Health Services), Texas Administrative Code, Part 1 (Department of State Health Services), Chapter 265 (General Sanitation), Subchapter K (Artificial Swimming Lagoons) and Subchapter M (Public Interactive Water Features and Fountains), which establish regulations for the design, construction, operation, repair and maintenance of all artificial swimming lagoons and public interactive water features and fountains, save and except the deletions and additions set forth below (the “Texas Department of State Health Services Standards for Artificial Swimming Lagoons” and the “Texas Department of State Health Services Standards for Public Interactive Water Features and Fountains,” respectively). The Texas Department of State Health Services Standards for Artificial Swimming Lagoons and Public Interactive Water Features and Fountains is made a part of this Ordinance as if fully set forth herein. Copies of the Texas Department of State Health Services Standards for Artificial Swimming Lagoons and Public Interactive Water Features and Fountains are on file in the office of the City Secretary of Frisco being marked and designated as the Texas Department of State Health Services Standards for Artificial Swimming Lagoons and Public Interactive Water Features and Fountains, published by the Texas Department of State Health Services, General Sanitation Division.

The following deletions and additions to the TAC Title 25, Part 1 Chapter 265, Subchapter K (Artificial Swimming Lagoons) are hereby approved and adopted (deletions are evidenced by ~~striketrough~~ and additions are underlined)²:

² Unless otherwise expressly provided herein, all phrases, words and/or terms used herein shall have the same meaning ascribed to the same in the Texas Administrative Code, Rule § 265.152 as amended (regardless of whether such

Rule § 265.152 Definitions is modified as follows:

...

- (36) Local regulatory authority – ~~A county, municipality, or other political subdivision of the state.~~ The City of Frisco, Texas.

...

Rule § 265.153 Plans, Permits and Instructions is modified as follows:

...

- (a) Licensed Engineer Required. ~~Lagoons constructed on or after the effective date of this subchapter shall be planned and designed by a licensed engineer. The licensed engineer shall provide necessary observation of construction work to certify that the project was completed in accordance with engineering documents.~~ Lagoons shall be designed by a registered Professional Engineer in the State of Texas and all drawings and documentation must be signed and sealed. Design Engineers must be registered with the City and provide proof of Professional Liability Insurance with a minimum coverage of one million dollars (\$1,000,000.00). The professional engineer shall certify that lagoon, features, and facilities are designed, built, and operate in compliance with these rules and with applicable federal, state, and/or local regulatory requirements.
- (b) Plans and Permits. ~~The department may review plans for the lagoon to ensure compliance with the rules in this subchapter. The lagoon shall comply with any regulatory authority permit requirements. Regardless of whether a regulatory authority requires plans or permits, the lagoon shall be designed, constructed, and operated in compliance with this subchapter.~~ The local regulatory authority shall review all applicable permitting and plan submittal documents for new construction or renovation of lagoons and facilities in order to ensure compliance regarding enforcement issues. The local regulatory authority requires that a registered professional engineer approve the design, construction and renovation of pools, spas, water features, and facilities. Regardless of whether a regulatory authority requires plans or permits, pools and spas shall be designed, constructed, and operated in compliance with the Texas Department of State Health Services Artificial Swimming Lagoons (Lagoons).

...

Rule § 265.157 Filters is modified as follows:

phrases, words and/or terms are italicized herein). Other italicized and bold notations are provided throughout for informational purposes only.

- (a) ~~NSF/ANSI standards. Filters shall be listed and labeled to NSF/ANSI Standard 50 or NSF/ANSI Standard 60, unless the lagoon was constructed before the effective date of this subchapter and it uses filters that are not replaced.~~ Filters and Media. All lagoon filters and filter media, including alternative filter media, shall be certified, listed, and labeled to NSF/ANSI 50 or NSF/ANSI 60. Filters shall use the appropriate filter media within the size specifications as recommended by the filter manufacturer and NSF/ANSI. Any filtration system that does not discharge backwash, wash water, and drainage water into the sanitary sewer system through an approved p-trap is prohibited by the regulatory authority.

...

Rule § 265.158 General Requirements for Pumps and Motors is modified as follows:

...

- (e) ~~Pumps and motors. A pump or motor provided for circulation of water shall meet the filter design range of flow required for filtering and cleaning the filters against the total dynamic head developed by the complete system and to meet required clarity.~~ A pump or motor provided for circulation of water shall meet the filter design range of flow required for filtering and cleaning the filters against the total dynamic head developed by the complete system and to meet required water quality. When pumps are replaced or upgraded, a licensed design engineer shall submit calculations and design values of the new system.

...

Rule § 265.164 Wastewater Disposal is modified as follows:

- (a) ~~Discharge or disposal. Filter backwash water and drainage water that is not reused in a lagoon shall be discharged or disposed of in accordance with the requirements of TCEQ or local regulatory authority.~~ Filter backwash, cartridge wash water, and drainage water that is not reused in the lagoon shall be discharged or disposed of in accordance with the requirements of the local regulatory authority. All backwash systems shall be discharged to the sanitary sewer system through an approved p-trap unless prior approval for alternate disposal is obtained from the local regulatory authority.

...

Rule § 265.166 Water Quality is modified as follows

...

- (p) Microbiological quality standards. Microbiological examination may be requested when deemed necessary by Frisco. These samples shall be examined in accordance with the procedures described in the latest edition of Standard Methods for the

Examination of Water and Wastewater, or as amended, (APHA, AWWA, and WPCF). All related fees shall be paid by the owner/operator of the pool or spa.

...

Rule § 265.174 Enforcement is modified as follows:

- (a) If a person violates Texas Health and Safety Code, §341.064, or this subchapter, the department or local regulatory authority may, in accordance with Texas Health and Safety Code, §341.092, institute a civil suit in district court for the assessment of civil penalties, injunctive relief, or both. If a person violates or causes, suffers, allows or permits a violation of Texas Health and Safety Code § 341.064, this subchapter or any of these rules, the department or local regulatory authority may, among other things and in accordance with Health and Safety Code § 341.092, assess civil penalties, seek injunctive relief, or both.
- (b) A person who violates Texas Health and Safety Code, §341.064, or this subchapter may also be subject to a criminal penalty under Texas Health and Safety Code, §341.091. If inspections by the local regulatory authority determine that the operation or maintenance of the lagoon, or facility constitutes a serious health or safety hazard for the user, the local regulatory authority may request voluntary immediate closure, perform involuntary closure, seek injunctive relief, and/or use any other enforcement methods and/or remedies available. In addition, a person who violates or causes, suffers, allows or permits a violation of Texas Health and Safety Code, § 341.064, this subchapter or any of these rules may also be subject to a criminal penalty under Texas Health and Safety Code, § 341.091. The local regulatory authority may take any and all appropriate legal remedies available to it including, but not limited to, immediately posting the lagoon closed. Whenever a lagoon voluntarily closes or is required to cease operation at any time, all access to the lagoon shall be restricted and a notice shall be posted at every entrance notifying the public that the lagoon is closed until further notice. Whenever a lagoon closes by mandate of the local regulatory authority or is required to cease operation, all access to the lagoon shall be restricted and a notice shall be posted at every entrance notifying the public that the lagoon is closed until further notice. Whenever a lagoon is involuntarily closed, operation can only be resumed when evidence is presented that all deficiencies that caused closure have been corrected and if explicitly authorized by the local regulatory authority. Such evidence may be in the form of a reinspection by the local regulatory authority, or by other evidence acceptable to the local regulatory authority.

...

- (d) The City of Frisco Chief Building Official, or his/her designee, shall be responsible for the enforcement of this Ordinance.

...

The following deletions and additions to the TAC Title 25, Part 1 Chapter 265, Subchapter M (Public Interactive Water Features and Fountains) are hereby approved and adopted (deletions are evidenced by ~~strikethrough~~ and additions are underlined)³:

Rule § 265.302 Definitions is modified as follows:

...

- (34) Local regulatory authority – ~~The local enforcement body or authorized representative having jurisdiction over PIWFs and associated facilities.~~ The City of Frisco, Texas.

...

- (63) ~~Remodeled—~~Replacement of facility of components or modification of the PIWF so that the design, configuration, capacity or operation differs in any aspect from the original approved design. This term does not include normal maintenance and repair of a PIWF or a water circulation system but does include any replacement or repair of circulation system equipment if the size, type or operation of the equipment differs from the original equipment.

...

Rule § 265.304 Water Supply and Wastewater Disposal is modified as follows:

...

- (d) Backwash water. ~~Filter backwash water and drainage water from a PIWF shall be discharged or disposed of as wastewater in accordance with the requirements of Texas Commission on Environmental Quality or local regulatory authority.~~ Filter backwash, cartridge wash water, and drainage water that is not reused in the lagoon shall be discharged or disposed of in accordance with the requirements of the local regulatory authority. All backwash systems shall be discharged to the sanitary sewer system through an approved p-trap unless prior approval for alternate disposal is obtained from the local regulatory authority.

...

Rule § 265.306 Water Quality at Public Interactive Water Features and Fountains is modified as follows:

...

³ Unless otherwise expressly provided herein, all phrases, words and/or terms used herein shall have the same meaning ascribed to the same in the Texas Administrative Code, Rule §265.182 as amended (regardless of whether such phrases, words and/or terms are italicized herein). Other italicized and bold notations are provided throughout for informational purposes only.

- (r) Microbiological quality standards. Microbiological examination may be requested when deemed necessary by Frisco. These samples shall be examined in accordance with the procedures described in the latest edition of Standard Methods for the Examination of Water and Wastewater, or as amended, (APHA, AWWA, and WPCF). All related fees shall be paid by the owner/operator of the pool or spa.

...

Rule § 265.307 Inspections and Permitting of Public Interactive Water Features and Fountains is modified as follows:

- (a) Frisco ~~A county, municipality,~~ or the department may:

...

- (3) ~~Require that the PIWF is tested for Cryptosporidium when the illness Cryptosporidiosis is diagnosed in an individual that has used the PIWF.~~ Require that the PIWF is tested for *Cryptosporidium* or other water borne illnesses/diseases when the illnesses/diseases are diagnosed in an individual who has used the PIWF. Such testing costs shall be incurred and paid for by the owner or operator of the PIWF.

...

- (e) ~~A county, municipality or the department may impose and collect a reasonable fee in connection with a permit or inspection requirement.~~ The owner or operator of a PIWF shall obtain from Frisco an annual operational permit for each PIWF. The permit fee for each PIWF that has recirculated water shall be Two Hundred Twenty-Five and No/100 Dollars (\$225.00); the permit fee for each PIWF that has non-recirculated water shall be One Hundred and No/100 Dollars (\$100.00).
- (f) ~~If a county or municipality imposes and collects a fee for a permit or inspection of a PIWF the following conditions shall be met: (1) the auditor for the county or municipality shall review the program every 2 years to ensure that the fees imposed do not exceed the cost of the program; and (2) the county or municipality shall refund the permit holders any revenue determined by the auditor to exceed the cost of the program.~~ The local regulatory authority shall review all applicable permitting and plan submittal documents for new construction or renovation of PIWFs and facilities in order to ensure compliance regarding enforcement issues. The local regulatory authority requires that a registered professional engineer approve the design, construction and renovation of pools, spas, water features, and facilities.
- (g) Licensed Engineer Required. PIWFs shall be designed by a registered Professional Engineer in the State of Texas and all drawings and documentation must be signed and sealed. Design Engineers must be registered with the City and provide proof of Professional Liability Insurance with a minimum coverage of one million dollars

(\$1,000,000.00). The professional engineer shall certify that public interactive water features, and facilities are designed, built, and operate in compliance with these rules and with applicable federal, state, and/or local regulatory requirements.

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SECTION 6: Administrative Process/Issuance of Permit to Operate.

- (a) No person shall operate a swimming pool, spa, public interactive water feature or lagoon unless a valid Permit To Operate has been obtained from Frisco; provided, however, pools and spas which are subject to Rules 265.181 - 265.211 of the Texas Department of State Health Services Standards for Swimming Pools and Spas will not be required to obtain the permit described in this Section. A separate permit is required for pools and spas physically separated by pool enclosure. A pool, spa, or public interactive water feature will be subject to fee of Two Hundred Twenty-Five and No/100 Dollars (\$225.00) per entity. Such permit for each location of the pool, spa or public interactive water feature unless otherwise revoked or suspended as prescribed herein, shall be valid from the date of issuance through March 31st of the following year. If paid by April 30th, the fee shall be Three Hundred Twenty-Five and No/100 Dollars (\$325.00) per entity; by May 31st, the fee shall be Four Hundred and Twenty-Five and No/100 Dollars (\$425.00) per entity. After May 31st, the fee shall be Five Hundred and No/100 Dollars (\$500.00) per entity. If, upon the first inspection, fees have not been paid, the pool, spa or public interactive water feature will be closed until compliance with this ordinance is met. A separate application and fee shall be submitted for each operational permit sought. A separate pool or public interactive water feature is determined by physical separation. A spa is considered separate and requires separate fees by the local regulatory authority. A separate permit is required for a lagoon. Each lagoon will be subject to fee of Five Hundred and No/100 Dollars. Such permit for each lagoon unless otherwise revoked or suspended as prescribed herein, shall be valid from the date of issuance through March 31st of the following year. If upon the first inspection, fees have not been paid, the lagoon will be closed until compliance with this Ordinance is met.
- (b) Frisco shall require an inspection of the pool, spa, public interactive water feature or lagoon prior to March 31st of each year. This inspection shall be required prior to the approval of the Permit to Operate each year. Should any pool, spa, public interactive water feature or lagoon fail the annual inspection, the owner of the subject pool, spa, public interactive water feature or lagoon is responsible for remedying the issues which resulted in the failed inspection, and for obtaining a satisfactory re-inspection from Frisco prior to the issuance of a Permit to Operate. Each re-inspection of pool, spa or public interactive water feature will incur a fee of One Hundred and No/100 Dollars (\$100.00) and must be paid prior to re-inspection. Each re-inspection of a lagoon will incur a fee of Two-Hundred and Fifty and No/100 Dollars (\$250.00) and must be paid prior to re-inspection. The Permit to Operate will be approved when each pool, spa, public interactive water feature or lagoon is in full compliance with this Ordinance.

- (c) The Frisco Permit to Operate shall expire on March 31st of each year. It is the responsibility of the operator/owner to request the inspection and to apply for the Permit to Operate prior to March 31st each year.
- (d) Once the inspection is approved, the application for Permit to Operate is submitted and appropriate fees are paid, Frisco will release the Permit to Operate.

if: SECTION 7: Offenses. A person, firm, corporation or business entity commits an offense

- (a) they violate any provision of this Ordinance;
- (b) they violate any of the posted signs required by this Ordinance;
- (c) the owner or designated manager of such pool knowingly allows the pool, spa, PIWF or lagoon to be used for swimming, diving or bathing purposes when it is closed or posted closed, whether voluntarily or involuntarily; or
- (d) they occupy the pool, spa, PIWF or lagoon area at any time the pool, spa, PIWF or lagoon is closed.

SECTION 8: Revocation or Suspension of Operation Permit.

- (a) Frisco may deny, revoke, or suspend any operating permit for failure of the applicant to comply with the provisions of this Ordinance, or in cases where the operating permit has been obtained through non-disclosure, misrepresentation or misstatement of a material fact.
- (b) All notices or orders issued pursuant to this Ordinance shall be either delivered personally or sent by certified mail to the person or corporation to whom the permit was issued or to the person in charge of the subject premises (the manager). Except in cases of emergency or urgent public necessity, such notice shall be delivered or mailed at least ten (10) days before any operating permit is revoked or suspended and shall state the reason(s) for such proposed revocation or suspension and notify that person of a right to appeal under Section 9 of this Ordinance.
- (c) A Permit To Operate, which has been revoked or suspended, may be reissued upon proper application and upon presentation of evidence that the deficiencies, violations and/or irregularities, which caused the revocation or suspension, have been corrected.
- (d) If Frisco determines that the operation or maintenance of any swimming pool constitutes an imminent hazard to the health and/or safety of the public, the Permit To Operate shall be suspended immediately, and the swimming pool shall be closed for use and shall remain closed until the necessary remedial action has been successfully completed. Frisco shall make an inspection to ensure compliance with

this Ordinance. Each separate inspection shall incur a fee of One Hundred and No/100 Dollars (\$100.00), which must be paid prior to the inspection being performed.

SECTION 9: Appeal. An administrative decision issued in connection with the requirements of this Ordinance, including denial of issuance or renewal or revocation or suspension of a Permit to Operate, is final unless the owner or permit holder files a written appeal with the Director of Development Services within 14 calendar days after the date of notice of the administrative decision. The Director shall hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this Article. An appeal of the Director's decision shall be made in writing to the City Manager within 14 calendar days. The City Manager's decision shall be final.

SECTION 10: Penalty Provision. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined a sum not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), and each and every day that such violation continues shall be considered a separate offense; provided, however, that such penal provision shall not preclude a suit to enjoin such violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 11: Savings/Repealing. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 12: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases is declared unconstitutional and/or invalid.

SECTION 13: Effective Date. This Ordinance shall become effective upon its passage and publication as required by the City Charter and by law.


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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this 17th day of August, 2021.





Jeff Cheney, Mayor

**ATTESTED AND CORRECTLY
RECORDED:**


Kristi Morrow, City Secretary

APPROVED AS TO FORM:


Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

Dates of Publication: August 22, 2021 and August 29, 2021, *Frisco Enterprise*