

ORDINANCE NO. 43-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE REPLACING CHAPTER 29.5, "SWIMMING POOLS AND SPAS", IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, there is a need to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, the current provisions of Chapter 29.5, "Swimming Pools and Spas", are no longer adequate to meet the needs of the community;

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

- PART 1:** That Chapter 29.5, "Swimming Pools and Spas" of the Code of Ordinances, City of Abilene, Texas, is hereby replaced as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 14th day of August, 2008.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 6th day of August, 2008, the same being more than 24 hours prior to a public hearing being held in the

Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 28th day of August, 2008, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 28th day of August, 2008.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

ORDINANCE NO. 43-2008

Replace CHAPTER 29.5, "SWIMMING POOLS AND SPAS" in its entirety with the following:

Sections:

- Sec. 29.5-1. Purpose and Scope.**
- Sec. 29.5-2. Design and Construction of Residential Swimming Pools.**
- Sec. 29.5-3. Operation, Maintenance, Design, and Construction of Public and Restricted Access Swimming Pools and Spas**
- Sec. 29.5-4. Appeal**
- Sec. 29.5-5. Violations and penalties**
- Sec. 29.5-6. Civil Remedies**

Sec. 29.5-1. Purpose and scope.

The purpose of this Chapter is to provide standards for the operation and maintenance of public and restricted access pools and spas, to minimize health and safety hazards, and to regulate the design and construction of all swimming pools and spas. The standards in these Sections shall cover public and restricted access pools and spas and operated by an owner, licensee, or concessionaire, regardless of whether a fee is charged for use, residential aboveground/in-ground swimming pools, permanently installed residential swimming pools and spas, and residential portable spas. Except where cited otherwise, the standards shall apply to those pools/spas constructed after the effective date of this Chapter. This Chapter applies within the corporate boundaries of the City of Abilene.

Sec. 29.5-2. Design and Construction of Residential Swimming Pools.

The National Spa and Pool Institute "Standard for Residential Swimming Pools", together with a residential swimming pool design and construction pamphlet amending and supplementing those standards, are hereby enacted and adopted by reference as the "City of Abilene Residential Swimming Pool Design and Construction Standards." The Code and the pamphlet are on file with the Building Official and City Secretary.

Sec. 29.5-3. Operation, Maintenance, Design, and Construction of Public and Restricted Access Swimming Pools and Spas.

Title 25, Chapter 265, Subchapter L of the Texas Administrative Code, "Standards for Public Pools and Spas," together with an operation, maintenance, design, and construction of public and restricted access pools and spas pamphlet amending and supplementing the Code, are hereby enacted and adopted by reference as the "City of

Abilene Operation, Maintenance, Design and Construction of Public and Restricted Access Pools and Spas Standards.” The Code and the pamphlet are on file with the Building Official and City Secretary..

Sec. 29.5-4. Appeal.

Any person, firm, or corporation aggrieved by an interpretation or decision regarding the codes and standards adopted or enacted in this Section may appeal such interpretation or decision. An appeal regarding design and construction of swimming pools and spas shall be to the Mechanical, Plumbing, Electrical, and Swimming Pool Board of Appeals, established in Section 8-391 of the Code of the City of Abilene. The provisions of Chapter 8, Article V, Division 3, regarding the procedures of the Mechanical, Plumbing, Electrical, and Swimming Pool Board of Appeals apply to this Section. An appeal regarding the maintenance and operation of public and restricted access pools shall be to the Public Health Authority and the Director of Planning and Development Services, as stated in Part 1, Article A, Section 4.4 of the Abilene Swimming Pools and Spas Code pamphlet.

Sec. 29.5-5. Violations and penalties.

- A. Any person who violates any provision of this Section shall be guilty of a misdemeanor, punishable by a fine as set forth in Sec. 1-9 of the Code of the City of Abilene.
- B. Each day a violation occurs shall constitute a separate offense.

Sec. 29.5-6. Civil Remedies.

- A. The City Attorney may enforce any regulation, order, or ruling promulgated under this Section by injunction, declaratory relief, or other action at law or in equity.
- B. The City Attorney may initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, correct or remove the construction, use, or work done on any swimming pool or spa that is done contrary to the provisions of this Chapter.