

**ORDINANCE NO. 55-2023**

**AN ORDINANCE ADDING CHAPTER 13, "HEALTH AND SANITATION," ARTICLE VI, "PUBLIC SWIMMING POOLS AND SPAS," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY**

**WHEREAS**, the Swimming Pool and Spa Code division of the City of Abilene construction codes has been amended to adopt the International Swimming Pool and Spa Code; and,

**WHEREAS**, the adopted International Swimming Pool and Spa Code does not regulate the sanitation, operation, management, water quality and other safety standards that may be enforceable by the Environmental Health Division of the Health Department; and,

**WHEREAS**, for the health and safety of the public, it is necessary to immediately adopt the Texas Administrative Code standards as the City of Abilene Public Swimming Pools and Spas Standards within Chapter 13 Health and Sanitation; and,

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

**PART 1:** That Chapter 13, Article VI, "Public Swimming Pools and Spas," Sections 13-80 through 13-86 of the Abilene Municipal Code be added as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

**PART 2:** That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force or effect.

**PART 3:** That any persons, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine in accordance with Chapter 1 (Section 1-9) of this Code. 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.

**APPROVED ON FIRST READING** the 10<sup>th</sup> day of August, 2023.

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 20<sup>th</sup> day of August, 2023, 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 24<sup>th</sup> day of August, 2023, to permit the public to be heard.

**APPROVED AND PASSED ON FINAL READING** this 24<sup>th</sup> day of August, 2023.

## EXHIBIT A

### Chapter 13 Health and Sanitation

#### Article VI. Public Swimming Pools and Spas

##### Section 13-80. Purpose and scope.

The purpose of this article is to provide standards for the operation, management, water quality and safety standards of public pools, spas and interactive water features and fountains within the City of Abilene. The City of Abilene Public Health Department, Environmental Health Division shall have the enforcement responsibility of this article and may be referenced throughout this article as the "health department."

##### Section 13-81. Design and construction of swimming pools.

The design and construction of swimming pools and spas is governed by section 8-620 of this code of ordinances.

##### Section 13-82. Operation, management, water quality and safety standards unrelated to design and construction, signage and enclosures.

Title 25, Chapter 265, Subchapter L of the Texas Administrative Code, "Standards for Public Pools and Spas," as amended, and Title 25, Chapter 265, Subchapter M of the Texas Administrative Code, "Public Interactive Water Features and Fountains," as amended, are hereby adopted by reference as the "City of Abilene Public Swimming Pools and Spas Standards." The City of Abilene Public Swimming Pools and Spas Standards establish minimum sanitation standards for the operation, management, water quality and safety standards of public pools, spas and interactive water features within the city of Abilene.

##### Section 13-83. Permit required.

A person may not operate a public swimming pool, spa or interactive water feature without a current permit issued by the City of Abilene Public Health Department, Environmental Services Division.

- (a) Each year before the expiration date of a current permit or before the seasonal opening of a swimming pool, spa, or interactive water feature, the owner or operator shall apply for a permit, pay the permit fee and contact the health department to schedule an inspection.
- (b) The city may issue a permit after receipt of the permit fee and completion of an inspection.
- (c) The fee for a swimming pool, spa or interactive water feature permit shall be determined from time to time and placed on file in the office of the City Secretary.
- (d) A permit shall expire one year from the date of issuance, or upon the seasonal closure of swimming pool, spa or interactive water feature, whichever occurs earlier.
- (e) A valid permit must be posted at every establishment or facility regulated by this article.

#### **Section 13-84. Suspension or revocation of permit.**

- (a) If a determination is made that the public swimming pool, spa, or interactive water feature does not comply with the provisions of this article, the health department shall notify the permit holder of the violations. If the health department determines that the condition of the pool, spa or interactive water feature is hazardous to the health or safety of the swimmers or of the general public, the pool, spa or interactive water feature shall be immediately closed and the permit suspended until all required repairs and modifications are completed and approved by the health department. A reinspection will be conducted during the regular working hours of the health department at the request of the permit holder. If compliance has been achieved and the reinspection fee paid, the permit holder shall be notified that the pool, spa, or interactive water feature may be opened and the permit reinstated.
- (b) When the health department has ordered that a pool, spa or interactive water feature be closed due to noncompliance with any provision of this article, the permit holder shall not allow the pool, spa or interactive water feature to be used for swimming, diving or bathing purposes. Use of the pool or spa after the health department has ordered such pool or spa to be closed shall be deemed prima facie evidence that the permit holder of the pool or spa has knowingly allowed the pool or spa to be used for such purposes.
- (c) The director of the health department may revoke a permit to operate a swimming pool, spa or interactive water feature, which includes the suspension of any and all use of said pool spa, or interactive water feature, if any of the following exist:
  - (1) The annual permit fee and any other required fees are not paid;
  - (2) The condition of a pool or spa is hazardous to the health or safety of the general public;
  - (3) The permit holder fails to keep all pool or spa equipment and devices working properly;
  - (4) The permit holder fails to maintain City of Abilene Public Swimming Pools and Spas Standards for two or more consecutive days;
  - (5) The permit holder fails to correct minor violations by the next routine inspection or by any written notice issued under this article.
- (d) The revocation shall continue until the cause of revocation is corrected and a reinspection fee to the health department is paid.
- (e) Any appeal of the decision by the director of the health department to revoke a permit may be appealed to the city manager if said appeal is in writing and made within ten days of the decision of the director. The city manager may either uphold, reverse, or modify the decision of the director. The decision of the city manager is final.

#### **Section 13-85. Criminal penalties.**

- (a) Any person who violates any provision of this article shall be guilty of a misdemeanor, punishable by a fine as set forth in section 1-9 of this code.
- (b) Each day a violation occurs shall constitute a separate offense.

#### **Section 13-86. Civil remedies.**

The city attorney may enforce any regulation, order, or ruling promulgated under this article by seeking injunction, declaratory relief, or other action at law or in equity.


ATTEST:

  
Deputy CITY SECRETARY



  
MAYOR

APPROVED:

  
CITY ATTORNEY