

AN ORDINANCE AMENDING CHAPTER 29.5, "SWIMMING POOLS AND SPAS", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AND CALLING A PUBLIC HEARING.

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 Abilene Municipal Code be amended 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 and effect.

PART 3. That any person, firm or corporation violating any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars (\$500). 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 6th day of MAY, A.D., 1999.

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 of the City of Abilene, said publication being on the 23 day of May, 1999, the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

PASSED ON SECOND AND FINAL READING this 27 day of MAY, A.D., 1999.

ATTEST:

Op Moore
CITY SECRETARY

Grady Barr
MAYOR

APPROVED:

Sharon Hicks
CITY ATTORNEY

EXHIBIT "A"

Chapter 29.5

SWIMMING POOLS AND SPAS

Sec. 29.5-4. Definitions.

Swimming pool or spa maintenance/service work: Work performed to clean and maintain pools and spas limited to the following: replace like equipment for like equipment, replace sand in filters, cleaning and chemical treatment, repair and/or replace ball filter, painting, and tile repair. Work requiring permits for mechanical, plumbing, electrical or structural repairs is not allowed. A licensed swimming pool contractor is required when work involves replacement of the deck, underground piping, or structural components of the pool.

Sec. 29.5-12. License required; exceptions; term; renewal.

(a) The design, installation, construction, alteration or modification of swimming pools, above-ground pools, and spa systems shall require a city swimming pool contractor's license. Exceptions to this shall be:

- (1) A homeowner who installs a pool or spa accessory to a single-family dwelling in which he/she resides and owns, provided he/she signs an affidavit acknowledging swimming pool/spa minimum requirements, and verifies that the work will be performed by the owner. The affidavit shall be on a form provided by the building inspection department.
- (2) Pools or spas designed by an architect or engineer licensed by the State of Texas.
- (3) Swimming pool and spa maintenance/service work, as defined in Sec. 29.5-4.

(b) A license holder is required to notify the city in writing within thirty (30) days of any change in mailing address, change of location, or business affiliation. The mailing address on file with the city shall be considered the contractor's primary place of business, for the purpose of all correspondence, including license expiration notice from the department.

(c) Each license shall expire on December 31st of each year. The building inspection department shall submit a renewal notice to each license holder. The renewal notice shall advise the amount of the renewal fee and include a renewal application. Licenses currently active at the time of adoption of this ordinance shall expire 12/31/99.

(d) A license holder is responsible for the timely filing of the renewal application. Failure to receive notification from the department prior to the expiration date of the license will not excuse failure to file for renewal.

(e) A license that has expired for a period of not more than thirty (30) days may be renewed by submitting the renewal application and payment of the renewal fee, and an additional late penalty fee as set by the City Council. If the license has expired for a period of more than thirty (30) days, but less than twelve months, the penalty fee shall be assessed at two times the amount. If the license has expired for a period of more than twelve months, that license may not be renewed. The former license holder may obtain a new license in the same manner as a new applicant, as set forth in Sec. 29.5-13.

(f) A licensed swimming pool contractor may elect, at the time of renewal, to obtain an "inactive" license. Inactive status prohibits the swimming pool contractor from engaging in the business of constructing or altering pools or spas. An inactive license may only be renewed upon expiration of the inactive license and payment of the appropriate fees, along with filing a current bond, certificate of insurance and contractor's registration. (Staff recommends \$25.00 renewal fee for inactive license.)

Sec. 29.5-13. License applications; inground swimming pools and spas.

(a) Persons desiring a city swimming pool contractor license shall request an application from the department, and the application, with a statement of experience and proof of practical experience, shall be submitted to the building inspection department a minimum of ten (10) days prior to the board meeting.

(b) An applicant for a swimming pool contractor license must submit written proof of a minimum of three (3) years' experience in the construction of pools, spas and decks. Information provided shall include employers, dates of employment, description of duties, and a list of at least five (5) inground pools which the applicant participated in the construction of, along with the dates of construction.

(c) Applicants must pass a nationally recognized test as approved by the board for swimming pool contractors, with a score of 70% or above. Ref. Section 29.5-14.

(d) Swimming pool contractors who hold a license at the time of adoption of this ordinance may continue to perform the construction of swimming pools and spas, contingent on passing the required exam within twelve (12) months of date of adoption of the ordinance. Failure to pass the exam within the time frame revokes the swimming pool license. A license may then be obtained as set forth in (a), (b) and (c) of this section.

(e) City swimming pool contractor licenses shall only be issued to individuals. Legal entities (corporations, partnerships, companies, etc.) are ineligible to be licensed.

Sec. 29.5-14. Exams.

(a) Exams shall be administered and monitored by MPE Board members or building inspection staff members.

(b) The exam shall be one approved by the board for use in determining licensing under the City of Abilene Swimming Pool Ordinance. The applicant shall have three (3) hours in which to complete the exam.

(c) An applicant who correctly answers seventy (70) percent of the exam questions shall be eligible for a city swimming pool contractor license, upon payment of the license fee. Eligibility for a license shall last not more than ninety (90) days from the date of notification of the exam results. Applicants who pass the exam but do not choose to acquire a license before the ninety-day period must pay the required exam fee and retake the exam.

(d) All applicants will be notified of the exam results within thirty (30) days of the exam date.

(e) An applicant shall be notified by the board of the scheduled exam date within a reasonable amount of time prior to the exam.

Sec. 29.5-15. Bond and Insurance Requirements.

A swimming pool contractor's bond in the amount of ten thousand dollars (\$10,000.00) shall be submitted and maintained on file with the Building Official of the City of Abilene. The bond shall be payable to the City of Abilene and conditioned on faithful performance of all of the provisions and regulations of this code and all other ordinances of the City. The surety on such bond shall be a company authorized to transact business in the State of Texas.

A certificate of insurance providing for commercial general liability insurance with a coverage amount of not less than \$300,000.00 for all claims arising in any one year. Insurance shall also provide for completed operations clause for work done under this ordinance.

Sec. 29.5-16. License applications; aboveground swimming pools and spas.

(a) An applicant for a license to install aboveground swimming pools and spas is not required to take an exam or provide proof of experience; however, the following must be received and approved by the department:

- (1) The application form completely and correctly filled out;
- (2) A completed contractor's bond filed with the city in the amount of Ten Thousand Dollars (\$10,000) binding the contractor to the city and guaranteeing compliance with all codes and ordinances, shall be on file in the office of the building official before the license will be issued;
- (3) The applicant shall sign an affidavit acknowledging minimum requirements for aboveground swimming pools;
- (4) Payment of the license fee as set by city council in accordance with city council resolution.

Sec. 29.5-17. Denial, suspension or revocation; penalties.

(a) A person whose application for a license is denied or a person whose license is suspended or revoked is entitled to a hearing before the board if he submits a written request for hearing to the department. If a person's license is revoked, the person may not apply for a new license until one year from the date the revocation became effective, and not before.

(b) The board may revoke or suspend a license, probate a license suspension, or reprimand a licensee for any violation of rules promulgated by the board. A violation may include, but not be limited to, obtaining a license through error or fraud; knowingly making a misrepresentation of services to be provided or which have been provided; or making any false promise with intent to influence, persuade, or induce an individual to contract for services. Any person whose license has been revoked may apply for a new license after the expiration of one year from the date of such revocation, but not before.

(c) It shall be unlawful for a licensed swimming pool contractor to permit the contractor's license to be used in any manner contrary to any of these provisions; or to obtain a municipal permit, required under the provisions hereof, in her/her name, or to allow the use of his/her name directly or indirectly by another person for the purpose of obtaining a municipal permit, when such licensed swimming pool contractor does not intend to, or does not in fact do or supervise the work authorized by such municipal permit; or to take out municipal permits for swimming pool work to be done by another person by whom he/she is not employed.

(d) Such unlawful action as detailed above shall constitute a Class "C" misdemeanor.

Sec. 29.5-18. Building inspection permits required.

No changes in this Section.

Sec. 29.5-19. Inspections required.

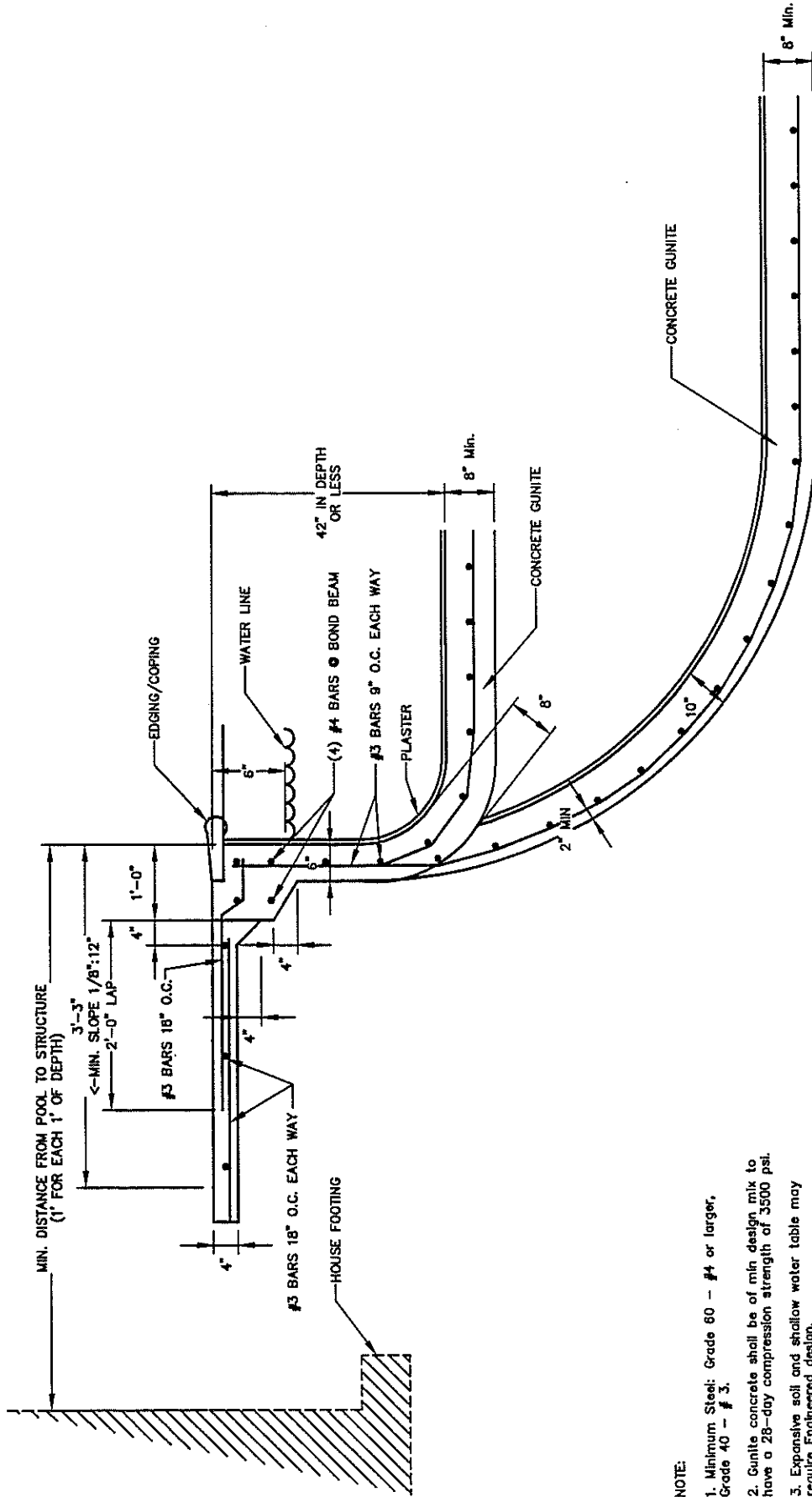
All inground swimming pool, or spa, or above ground swimming pool installations or alterations thereto, including equipment, piping, and appliances related thereto, shall be inspected to insure compliance with all requirements of this Code as follows:

- (1) Steel inspections.
- (2) Grounding and related electrical inspections per the N.E.C.
- (3) Water or sewer connections.
- (4) Forming and steel inspection for decks.
- (5) Steps, ladders and diving boards.
- (6) Pool equipment and pool construction materials.
- (7) Fencing and gates.
- (8) Final inspections.

**ARTICLE III. DESIGN AND CONSTRUCTION STANDARDS
RESIDENTIAL INGROUND POOLS**

Sec. 29.5-21. ANSI Standard for Residential Swimming Pools amendments.

Figure 29.5-21 Minimum standards for reinforcing steel and concrete for pools and decks.



NOTE:

1. Minimum Steel: Grade 60 - #4 or larger, Grade 40 - #3.
2. Gunitite concrete shall be of min design mix to have a 28-day compressive strength of 3500 psi.
3. Expansive soil and shallow water table may require Engineered design.
4. Deck concrete shall be a min design mix to have a 28-day compressive strength of 2500 psi.

DEEP & SHALLOW SECTIONS

Figure 29.5-21