

ORDINANCE NO.

1 AN ORDINANCE AMENDING THE CITY CODE TO ADD CHAPTER 10-7  
2 RELATING TO POOLS AND SPAS AND CREATING OFFENSES; AND  
3 REPEALING CHAPTER 25-12, ARTICLE 3 OF THE CITY RELATING TO  
4 SWIMMING POOLS.

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

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8 PART 1. The City Code is amended to add Chapter 10-7 to read:

9  
10 CHAPTER 10-7. POOLS AND SPAS.

11 ARTICLE 1. GENERAL PROVISIONS.

12 § 10-7-1 APPLICABILITY.

13 This chapter applies in the zoning jurisdiction.

14 § 10-7-2 DEFINITIONS.

15 (A) In this chapter:

- 16 (1) PRIVATE FACILITY means a pool or spa that serves not more than two dwellings.
- 17 (2) PUBLIC FACILITY means a pool or spa that is governed by the state pool and spa regulations.
- 18 (3) STATE POOL AND SPA REGULATIONS means the regulations adopted by the state of Texas to regulate public pools and spas, and includes the following, as amended from time to time:
- 19 (a) Health and Safety Code Section 341.064 (*Swimming Pools And Bathhouses*), Section 341.081 (*Authority Of Home-Rule Municipalities*), Section 341.082 (*Appointment Of Environmental Health Officer In Certain Home-Rule Municipalities*), Section 341.091 (*Criminal Penalty*), and Section 341.092 (*Civil Enforcement*);
- 20 (b) Health and Safety Code Chapter 757 (*Pool Yard Enclosures*); and
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(c) Texas Administrative Code Title 25, Part 1, Chapter 265,  
Subchapter L (*Standards For Public Pools And Spas*).

(B) A term used in this chapter that is defined in the state pool and spa regulations has the meaning assigned to it by the state pool and spa regulations.

**§ 10-7-3 HEALTH AUTHORITY DESIGNATION; ENFORCEMENT.**

(A) In accordance with the state pool and spa regulations, the health authority is designated as the:

- (1) environmental health officer; and
- (2) local regulatory authority.

(B) The health authority is authorized to enforce the state pool and spa regulations. The health authority may delegate enforcement to a City employee.

**ARTICLE 2. BUILDING PERMITS.**

**§ 10-7-21 BUILDING PERMIT REQUIRED.**

- (A) Except as provided in Subsection (B), a person may not construct or structurally alter a public facility, a private facility, or an enclosure for a public or private facility unless the building official has issued a building permit for the construction or alteration.
- (B) A building permit is not required for a prefabricated wading pool with a capacity of less than 5,000 gallons.

**§ 10-7-22 PERMIT ISSUANCE.**

- (A) Except as provided in Subsection (B), the building official shall issue a building permit after determining that the construction plans for a public facility, private facility, or enclosure for a private facility comply with the applicable provisions of Chapter 25-12 (*Technical Codes*).
- (B) For a public facility, the building official may not issue a building permit unless the director of the Watershed Protection and Development Review Department and the health authority have approved the construction plans in accordance with Section 25-12-56 (*Construction Plans*).

**ARTICLE 3. PRIVATE FACILITIES.**

**§ 10-7-41 ENCLOSURE REQUIRED FOR PRIVATE FACILITY.**

- (A) The operator of a private facility located outdoors shall enclose the facility in the manner prescribed by this section.
- (B) The enclosure:
- (1) must be at least four feet in height;
  - (2) may include a fence, wall, or building;
  - (3) may not include an opening large enough to permit the passage of a four-inch diameter sphere; and
  - (4) must be constructed in accordance with the Building Criteria Manual.

**ARTICLE 4. PUBLIC FACILITIES.**

**§ 10-7-61 COMPLIANCE WITH STATE POOL AND SPA REGULATIONS.**

A public facility must be constructed, maintained, and operated in accordance with the state pool and spa regulations.

**§ 10-7-62 CONSTRUCTION PLANS.**

- (A) A person may not construct or structurally alter a public facility unless the director of the Watershed Protection and Development Review Department and the health authority have approved the construction plans.
- (B) A person who seeks to construct or structurally alter a public facility must submit the construction plans to the Watershed Protection and Development Review Department and the health authority for review.
- (C) The construction plans must comply with the requirements of the Building Criteria Manual and include:
- (1) the proposed design of the public facility;
  - (2) a description of the construction materials; and
  - (3) the mechanical plans, including a description of the equipment make and model.

1 (D) The director of the Watershed Protection and Development Review  
2 Department shall approve the construction plans after determining that the  
3 plans comply with Title 25 (*Land Development*).

4 (E) The health authority shall approve the construction plans after determining that  
5 the construction plans comply with this chapter and the state pool and spa  
6 regulations.

7 **§ 10-7-63 WATER QUALITY TESTS AND REPORTS.**

8 (A) The operator of a public facility shall test the water quality and report the  
9 results as required by state pool and spa regulations.

10 (B) In addition to the requirement of Subsection (A), for a Class C or Class D  
11 public facility the operator shall test the water quality and record the results no  
12 less often than:

13 (1) each day of operation, for a public facility that is in use not more than  
14 one day a week; or

15 (2) for a public facility that is in use more than one day a week:

16 (a) once a day, two days a week, if the operator is on-site less than 32  
17 hours a week; or

18 (b) once a day, four days a week, if the operator is on-site 32 hours or  
19 more a week.

20 (C) The operator of the public facility shall:

21 (1) retain the test result records for at least one year; and

22 (2) provide the test result records to the health authority when requested by  
23 the health authority.

24 **§ 10-7-64 INSPECTIONS.**

25 (A) The health authority may inspect a public facility at any reasonable time.

26 (B) If access to a public facility is restricted by a locking mechanism, the operator  
27 shall provide the health authority with a key, access card, lock combination, or  
28 other the means to unlock and enter the facility.

1       **§ 10-7-65    OPERATING PERMIT REQUIRED.**

- 2           (A) A person may not operate or exercise control over a public facility without an  
3           operating permit.
- 4           (B) A person who seeks to operate or exercise control over a public facility must  
5           file an application for an operating permit with the health authority annually.  
6           The application must include:
- 7               (1) the operator's name and address;
- 8               (2) the location of the facility; and
- 9               (3) other information as required by the health authority.
- 10          (C) Except as provided in Section 10-7-66 (*Denial Or Suspension Of Operating*  
11          *Permit; Appeal*), the health authority shall issue an operating permit if the  
12          public facility complies with the requirements of this chapter.
- 13          (D) A permit is not transferable.
- 14          (E) The operator shall retain the operating permit at the public facility and permit  
15          the health authority to inspect it at any reasonable time.

16       **§ 10-7-66    DENIAL OR SUSPENSION OF OPERATING PERMIT; APPEAL.**

- 17          (A) The health authority may deny an application for an operating permit or  
18          suspend an operating permit if:
- 19               (1) the public facility does not comply with the requirements of this chapter;
- 20               (2) the health authority determines that the public facility is hazardous to  
21               pool users or the public; or
- 22               (3) the operator does not:
- 23                   (a) pay the permit fee;
- 24                   (b) provide accurate operational records to the health authority; or
- 25                   (c) permit the health authority to inspect the public facility.
- 26          (B) After determining that public facility does not comply with this chapter or that  
27          the operating permit should be suspended, the health authority may:
- 28               (1) close the facility;

- (2) notify the operator of the closure;
- (3) place a sign at the facility indicating the closure; and
- (4) lock the entrance to the facility.

(C) The operator of a public facility may appeal the health authority's denial or suspension of an operating permit to the City Council.

#### **ARTICLE 5. OFFENSES.**

##### **§ 10-7-81 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 2.** Chapter 25-12, Article 3 (*Swimming Pools*) of the City Code is repealed.

**PART 3.** This ordinance takes effect on \_\_\_\_\_, 2006.

**PASSED AND APPROVED**

\_\_\_\_\_, 2006      §  
§  
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Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk