

May 8, 2025
Item No. 9.3.
Pool Inspection Ordinance

Sponsor: Ross Brady, Chief of Staff

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance amending Chapter 18, "Health" of the Code of Ordinance by adding sections relating to public pool inspections.

Relationship to Strategic Goals:

Good Governance

Recommendation(s): Staff recommends Council consider and vote upon the proposed ordinance.

Summary: At the March 27th, 2025 City Council meeting, the Brazos County Health District made a presentation regarding the need for a pool inspection program to be administered by the Health District. At that time, the Council directed staff to bring back an ordinance establishing a pool inspection program. Staff has worked with the Health District to draft the ordinance before you. While the inspections will be administered by the Health District, the City must pass an ordinance to require the inspections and to authorize the Health District to carry them out.

Budget & Financial Summary: N/A

Attachments:

1. CH 18 Art IV Pool Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, “HEALTH,” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY ADDING CERTAIN SECTIONS RELATING TO PUBLIC POOL INSPECTIONS; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 18, “Health” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A”** attached hereto and made a part of this Ordinance for all purposes.

PART 2: If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

PART 3: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity 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 of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 4: This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED and APPROVED this _____ day of _____, 20__.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

That Chapter 18, "Health," of the Code of Ordinances of the City of College Station, Texas is hereby amended by adding **Article IV-Public Swimming Pools and Spas** and is to read as follows:

Chapter 18**ARTICLE IV-Public Swimming Pools and Spas****DIVISION I-GENERALLY**

State Law Reference-Texas Health & Safety Code Chapter 341 et seq.

Sec. 18.99 – Penalties and fees.

(a) The Brazos County Health District (BCHD) Board of Health shall adopt the regulations in this article to set and charge fees necessary to the administration and enforcement of the provisions of this article, including, but not limited to, permit fees, class fees, inspection fees, and re-inspection fees. The BCHD Board of Health shall provide an updated fee schedule to the City within thirty (30) days of approved fee changes.

(b) Any person found violating this article is guilty of a misdemeanor and upon conviction is punishable in accordance with [Section 1-7](#). A violation of this article does not prevent the City or any Regulatory authority from seeking any other civil or criminal violations under state or federal law.

Sec. 18-100. - State rules adopted.

(a) The City adopts by reference and incorporates into this article the Texas Administrative Code - Title 25 —Health Services, Part I — Department of State Health Services, Chapter 265—General Sanitation, Subchapter L —Public Pools and Spas, as the regulations now exist and as hereafter amended.

(b) The term "municipality or City" in the regulations and this article shall be understood to refer to the City of College Station and the term "Regulatory Authority" in the said regulations and this article refer to the City or its authorized representative. The authorized representative for enforcement of this article and the regulations are the Brazos County Health District ("BCHD") and the City.

(c) The term person as used in this article means any person who may be responsible for the maintenance, operations or management or the permit applicant of a public pool or spa.

Sec. 18-101. - Service of Notices. A notice provided for in this article is properly served when it is delivered to the permit holder, or when it is sent by registered or certified mail, return receipt

requested, to the last known address of the permit holder. Notice may be provided by conspicuously posting the notice at the location of the pool or spa if the notice relates to an imminent health or safety hazard. A copy of the notice shall be filed in the records of the Regulatory Authority.

Sec. 18-102. - Hearings.

(a) Right to Hearing. A person may request a hearing contesting the Regulatory Authority's denial of an application for a permit or a suspension or revocation of a permit or a hold order, except that a hearing request does not stay the Regulatory Authority's order for the suspension of a permit, revocation or hold order.

(b) Written Request. A person requesting a hearing in response to a denial of an application for permit, a suspension or revocation must submit a written request for a hearing to the municipality within ten (10) days from the date of the notice.

(c) Request Contents. A hearing request shall be in writing and must contain the following:

- (1)** A statement that a genuine and material issue of fact exists for which the hearing is requested;
- (2)** A statement of defense, mitigation, denial, or explanation concerning each allegation of fact;
- (3)** A statement indicating whether the presence of witnesses for the Regulatory Authority is required; and
- (4)** The name and address of the respondent's or requester's legal counsel, if any.

(d) Hearing Procedures. The hearings provided for in this section are conducted by the City Manager or designee at a time and place designated by same. Based upon the recorded evidence of such hearing, the City Manager or designee shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing. A written decision shall be furnished to the permit holder by the municipality.

Sec. 18-103. - Inspections.

(a) Preoperational Inspections. The Regulatory Authority may inspect a new public swimming pool or spa before it is operational to determine compliance with the requirements of this article.

(b) Inspection Frequency. Inspections of a public swimming pool or spa shall be performed as often as necessary for the enforcement of this article based on public health and safety risks posed by the public swimming pool or spa and their past compliance history. The regulatory authority may make annual inspections, surveys and investigations, collect samples of water and other substances found on the premises of public swimming pools or spas, and make or cause to make such laboratory analysis as may be necessary to

determine that every public swimming pool or spa complies with the standards and requirements set forth in this article. Seasonal public swimming pools and spas may receive a pre-opening inspection as well as an inspection during operation. Inspections may also be made where consumer complaints or reports of hazardous public swimming pool or spa conditions warrant a need to perform an inspection.

(c) Access. Agents of the Regulatory Authority, after proper identification, shall be permitted to enter any public swimming pool or spa during normal hours of operation or at any reasonable time, for the purpose of making inspections, to determine compliance with this article. The agents shall be permitted to examine the records of the public swimming pool or spa to obtain information pertaining to water testing, equipment functionality, and safety compliance. If a person denies access to the Regulatory Authority, the Regulatory Authority shall:

(1) Inform the person that:

- a.** The permit holder is required to allow access to the Regulatory Authority as specified in this article and the permit;
- b.** Access is a condition of the acceptance and retention of a public swimming pool or spa permit to operate under this article; and
- c.** If access is denied, an order issued by the Municipal Court Judge of the City of College Station allowing access, hereinafter referred to as an inspection order, maybe obtained according to law; and

(2) Make a final request for access.

(d) Inspection Reports. Whenever an inspection of a public swimming pool or spa is made, the findings shall be recorded on the inspection report form. The inspection report form shall summarize the requirements of these rules and shall set forth a score of “Pass” or “Fail”. A copy of the inspection report form shall be furnished to the person in charge of the establishment, at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law. An inspection report form is based on the requirements of this article and is on file in the Regulatory Authority's Office.

(d) Violation Corrections.

(1) Correction Procedures. The inspection report form shall specify a reasonable period of time for the correction of the violation found, and the correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- a.** If the Regulatory Authority determines an imminent health and safety hazard exists, the establishment shall immediately cease operations. Operations shall not be resumed until authorized by the

Regulatory Authority. An imminent health and safety hazard exists under conditions, including, but not limited to:

1. Lack of safety equipment;
2. Lack of working emergency phone;
3. Chemical levels above or below required limits for operations;
4. Circulation pumps not functioning;
5. Non-compliance with Virginia Graeme Baker Pool and Safety Act;
6. Lack of self-closures on gates; or
7. Other conditions that affect public health and safety.

(2) **Reinspection Fee.** Any violation not corrected after two follow-up visits may be subject to a reinspection fee determined by the BCHD Board of Health. If the fee has not been paid after thirty (30) days, there will a 20 percent additional fee collected, and after sixty (60) days the permit may be suspended.

Sec. 18-104. - Certified Pool Operator Required.

(a) Per Texas Administrative Code § 265.205, every public swimming pool or spa is required to be overseen by a certified pool operator (CPO). The CPO is not required to be onsite but must be available by phone and able to quickly resolve issues that are hazardous to public health and safety. A CPO may supervise multiple public swimming pools or spas but if public swimming pools or spas under a specific CPO have continuous violations, the Regulatory Authority reserves the right to limit the number of public swimming pools or spas which that CPO may supervise.

(b) Non-compliance with this section will result in a follow-up fee determined by the BCHD Board of Health.

DIVISION 2. – PERMIT

Sec. 18-105. - Required. No person shall operate a public swimming pool or spa not having a valid permit issued by the Regulatory Authority. Only a person complying with this article may receive or retain a permit. It shall be unlawful to interfere with the Regulatory Authority in the performance its duties as described in this article.

Sec. 18-106. - Issuance.

(a) **Permit Application.** Any person desiring to operate a public swimming pool or spa shall make written application for a permit on the forms provided by the Regulatory Authority. Before approval of an application for a permit, the Regulatory Authority shall inspect the proposed public swimming pool or spa to determine compliance with the requirements of the State rules as adopted by this article. The Regulatory Authority shall issue a permit if its inspection reveals that the proposed public swimming pool or spa

complies with the requirements of this article. A valid permit shall be posted on the public swimming pool or spa premises in a location visible to the users of the public swimming pool or spa and available for inspection by the regulatory authority. The applicant shall pay the Regulatory Authority a fee to be set by the BCHD Board of Health at the time of renewal, prior to opening a new public swimming pool or spa and when a change of ownership occurs.

(b) Permit Conditions. Every person as part of the permit application and the permit gives the City and the Regulatory Authority written permission and consent to enter the premises where the pool or spa is located for inspection.

(c) Permit Term. The permit term is one (1) year. The permit application and fee must be received by the Regulatory Authority before the end of the permit term. If such application and fee are not received the Regulatory Authority may assess an additional 20 percent of the fee for failure to timely submit. Any application and permit fee not received within thirty (30) days after the expiration may result in immediate closure of the public swimming pool or spa.

(d) Permit Required. A permit is required to operate a public swimming pool or spa. If a public swimming pool or spa is found to be operating without a permit, the public swimming pool or spa shall close operations until a permit is issued by the Regulatory Authority. A re-inspection fee, as determined by the BCHD Board of Health, may be charged to the public swimming pool or spa.

(e) Expired Permits. If a permit for a public swimming pool or spa expires and no renewal application is filed and approved within three (3) months of the expiration, the public swimming pool or spa must be drained and signs posted indicating that the public swimming pool or spa is closed. If a renewal application is not filed and approved within twenty-four (24) months, the public swimming pool or spa must be filled with a material approved by the City. This provision applies to permits that expire while a permit is under suspension.

Sec. 18-107. - Transfer. Permits are not transferable.

Sec. 18-108. - Suspension.

(a) Suspension for Public Health or Safety. The Regulatory Authority may without warning, notice, or hearing suspend any permit to operate a public swimming pool or spa if the holder of the permit or person in charge or the operation of the public swimming pool or spa:

- (1)** Does not comply with the requirements of this article; or
- (2)** The operation of the public swimming pool or spa constitutes an imminent health and safety hazard.

(b) Effective with Notice. Suspension is effective upon service of the notice required by this article.

(c) Operations Cease with Suspension. When a permit is suspended, public swimming pool or spa operations shall immediately cease. Unless otherwise provided in this article, within one (1) year, the first permit suspension will result in a mandatory 24-hour closure. The second permit suspension will result in a 72-hour mandatory closure. After a third permit suspension within a 12-month period the permit will be revoked, and the owner may seek a hearing as set forth in this article or apply for a new permit. If granted, the owner must pay the yearly fee plus the re-inspection fee, and pass an opening compliance inspection, meeting all requirements as outlined in this article.

(d) Right to Appeal Suspension. Whenever a permit is suspended, the permit holder or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and notified of the right to appeal such suspension as provided in this article. If no written request for the hearing is filed within ten (10) days of the service of notice, the suspension is sustained. The Regulatory Authority may end the suspension at any time if reasons for suspension no longer exist.

(e) Reinspection Required. Whenever a public swimming pool or spa permit is suspended, a re-inspection must be paid. The establishment shall not resume operations until such time as a re-inspection determines that conditions responsible for the suspension no longer exist.

(f) Fees Required. Failure to pay any and all permit fees, re-inspection fees, late charges and any other fees owed to the Regulatory Authority when due may result in a permit suspension until such time as all fees and/or late charges have been paid.

Sec. 18-109. - Revocation. The Regulatory Authority may, after providing opportunity for a hearing as provided in this article may revoke a permit for serious or repeated violations of this article or for interference in the Regulatory Authority's performance of its duties. Before revocation, the Regulatory Authority shall notify the holder of the permit or person in charge, in writing, of the reason for which the permit shall be revoked at the end of the ten days following service of such notice, unless a written request for a hearing is filed as provided in this article by the permit holder. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

Sec. 18-110. - Application After Revocation. Whenever a permit revocation is final, the revoked permit holder may make written application for a new permit six (6) months after the revocation.