

ORDINANCE NO. 2009-19

AN ORDINANCE OF THE CITY OF RIESEL, TEXAS CONCERNING SWIMMING POOLS AND SPAS BY ADOPTING THE TEXAS DEPARTMENT OF HEALTH STANDARDS FOR PUBLIC SWIMMING POOL AND SPA; BY ADDING CERTAIN SECTIONS CONCERNING DEFINITIONS, PURPOSE AND INTENT, PERMITS TO OPERATE, INSPECTIONS AND REPORTS, MAINTENANCE AND OPERATION, HEALTH AND SAFETY PROVISIONS, SPAS, REGULATION IN SWIMMING POOL AND SPA AREA; PROVIDING FOR PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS

Section 1. Adoption of Texas Department of State Health Services Standards For Public Swimming Pool And Spa

For the purpose of regulating pools and spas, Texas Administrative Code, Title 25-Health Services, Part I- Department of State Health Services, Chapter 265-General Sanitation, SubChapter L – Standards for Public Pools and Spas, as currently adopted or as may be amended in the future, is hereby adopted and made a part of this Ordinance as if fully set out herein. Those provisions shall govern all matters covered therein within the City, except those provisions which may be in conflict with other provisions of this Ordinance or State law, and may be referred to jointly below as the *Standards*.

Section 2. Definitions

Bathhouse means a structure which contains dressing rooms, showers and toilet facilities for use with adjacent public or semipublic spas or pools.

Director means the director of the Waco-McLennan County Public Health District, or his/her designated representative.

Existing pool means a pool whether installed or constructed before or after 10/01/1999.

Health District means the Waco-McLennan County Public Health District.

Permit Holder means the person or entity (corporation, partnership, etc.) in whose name the permit for the pool or spa is issued. A permit may be issued to the owner or operator of the pool or spa. The owner or operator is the fee title holder of the property upon which the pool or spa is located, and/or business manager, complex manager, property owners, association manager, rental agent or other individual who is in charge of the day

to day operation or maintenance of the property. The owner/operator is responsible to ensure that the pool or spa and associated facilities comply with state and local pool or spa design, construction, operation, and maintenance standards.

Pool deck means the area immediately around the pool which is usually paved but may be of wood or another surface.

Pool manager of operations means the person designated by the permit holder to operate or maintain any pool or spa pursuant to this ordinance.

Regulatory authority shall mean the Waco-McLennan County Public Health District.

Spa means a public or semi-public spa as defined by the Standards and does not include a residential spa under the control of a property owner or the owner's tenant that is intended for use by not more than two resident families and their guests, including a spa serving only a single family residence or a duplex.

Swimming Pool means a public or semipublic pool as defined by the Standards and does not include a residential pool under the control of a property owner or the owner's tenant that is intended for use by not more than two resident families and their guests, including a pool serving only a single family residence or a duplex.

Section 3. Enforcement Authority

- (a) The Environmental Health Division of the Waco-McLennan County Public Health District shall have enforcement responsibility of this Ordinance.
- (b) To defray the reasonable cost of administering this Ordinance, the Health District shall require fees to be paid according to the fee schedule approved by the City Council.

Section 4. Permits to Operate Pools and Spas Required

- (a) No person shall operate or maintain a public or semi public swimming pool or spa without first obtaining a permit to operate such a pool or spa from the Health District, Environmental Health Division. Application shall be made on a form provided by the Environmental Health Division and shall be submitted with the applicable permit fee. A separate application must be filed for each pool or spa circulation system and each application must be accompanied by the applicable fees. Where a pool, including wading pool, or spa operate on the same circulation system, only one permit shall be required. Such permits shall be valid for one year unless revoked or suspended for cause. Only persons who comply with these regulations shall be entitled to receive and retain such permits. The permit shall be posted in a conspicuous location visible to the users of the swimming pool or spa.

- (b) In order to continue operation of the pool or spa, a permit renewal application must be filed at least thirty (30) days prior to the expiration of a permit. If the permit renewal cannot be completed in advance of the expiration date because of repairs or modifications that are required, the pool or spa may not be used after the permit expires until the renewal permit is issued.
- (c) If a permit for a pool or spa expires and no renewal application is filed and approved within three (3) months of the expiration, the pool or spa must be drained. If a renewal application is not filed and approved within twenty-four (24) months, the pool or spa must be filled with a material approved by the Director.

Section 5. Inspection and Reports

- (a) The Health District shall make such inspections, surveys and investigations, collect samples of water and other substances found on the premises of public or semi public swimming pools or spas, and make or cause to be made such laboratory analysis as may be necessary to determine that every swimming pool or spa complies with the standards and requirements adopted by this ordinance. The Health District is authorized and empowered to enter upon and make inspections of the premises of any public or semi public swimming pool or spa while it is in operation or use and at any other reasonable time. The pool manager of operations, permitholder or designee shall assist in any reasonable way with such inspections.
- (b) It is the responsibility of the permit holder to reimburse the Health District, for the payment of any laboratory analysis resulting in the suspension of a permit as stated in Section 9.

Section 6. Maintenance and Operation; Responsibility for Compliance, Standards.

- (a) Every public or semi public swimming pool or spa shall be under the supervision of the permit holder, who shall be responsible for compliance with all parts of this ordinance relating to maintenance, operation and safety. It shall be unlawful for such permit holder to cause or permit the existence of a condition which is in violation of any part of this ordinance. All repairs to existing equipment and facilities shall comply with the Standards. Equipment, parts, or materials that are replaced shall be new and shall comply with the Standards.
- (b) A pool manager may not allow a public or semi public swimming pool or spa to be used unless the pool or spa is in compliance with all Standards and has a valid current permit issued by the District.
- (c) All pumps, filters, disinfectant and chemical feeders, drains, ladders, lighting, ropes and appurtenant equipment used in the operation of all swimming pools, spas, diving towers and water slides shall be maintained in a good state of repair. The pool or spa shall be closed immediately whenever glass, food, garbage, human excrement or any other unsafe

substance is introduced into the water and such substance creates a hazard to the health or safety of the general public.

- (d) All swimming pool and spa waters shall be treated and maintained in accordance with the Standards.
- (e) Areas surrounding a public or semi public swimming pool, including decks and fencing, bathhouses, dressing rooms, toilets, shower stalls and lounging areas shall be kept clean and in a state of good repair at all times. The walls, floors, equipment of appurtenant facilities at a spa or swimming pool must be maintained in a clean and sanitary condition at all times.

Section 7. Health and Safety Provisions – Swimming Pools:

- (a) Safety features and safety equipment shall be the same as stated in the Standards.
- (b) Existing public or semi public swimming pool depth and unit markings shall be plainly marked and must be visible at or above the water surface on the vertical wall of the swimming pool and on the edge of the deck or walk next to the swimming pool at maximum and minimum depth points, and at the points of break between the deep and shallow portions and at intermediate 1-foot increments of depth in the shallow end and spaced at not more than 25 foot intervals measured around the entire perimeter of the swimming pool. The depth in the diving areas will be appropriately marked. These markings shall be made in a permanent and durable material or manner. If faded or chipped, the markings shall be replaced or repaired.
- (c) Depth markers for existing public or semi public swimming pools shall be in numerals and letters of four (4) inches minimum height and a color contrasting with background. Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used, said markings to be plainly visible to persons in the swimming pool. Any repair to or replacement of depth markings shall comply with the Standards for new pools. These markings shall be made in a permanent and durable material or manner. If faded or chipped, the markings shall be replaced or repaired.

Section 8. Health and Safety Provisions-Spas:

Unless a specific provision applies to the contrary, spas as defined in Section 2 shall be subjected to the same design and operation criteria which apply to swimming pools as stated in this ordinance and the Standards.

Section 9. Regulation in Swimming Pool and Spa Area; Violations; Suspension of Permit.

- (a) If a determination is made that the public or semi public swimming pool or spa does not comply with the provisions of this ordinance, the Health District shall notify the permit holder of the violations. If the Health District determines that the condition of the pool or spa is hazardous to the health or safety of the swimmers or of the general public, the

Director shall notify the permit holder that the pool or spa must be immediately closed and the permit is suspended until all required repairs and modifications are completed and approved by the Health District. A reinspection of the pool will be conducted during the regular working hours of the Health District at the request of the pool or spa manager of operations or the permit holder. If compliance has been achieved and the reinspection fee paid, the permit holder shall be notified that the pool may be reopened and the permit is reinstated.

- (b) When the Health District has ordered that a pool or spa be closed due to noncompliance with any provision of this ordinance, the permit holder shall not allow the pool or spa to be used for swimming, diving or bathing purposes and shall immediately take every reasonable step to prevent the use of such pool for such purposes. Use of the pool or spa after the Health District 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 shall suspend a permit to operate a swimming pool or spa, which includes the suspension of any and all use of said pool or spa, if any of the following exist:
 - (1) The annual permit fee and any other required permits or 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 correct disinfection levels or pH levels on two consecutive tests on two different days, or allow the presence of organisms of the coliform group in any sample on two consecutive days;
 - (5) The permit holder fails to correct minor violations by the next routine inspection or by any written notice issued under this ordinance.
- (a) The suspension shall continue until the cause of suspension is corrected and a reinspection fee to the Health District is paid.
- (b) Any appeal of the decision to suspend a permit by the Director may be appealed to the City Secretary if said appeal is in writing and made within five (5) days of the decision of the Director. The City Secretary may either uphold, reverse, or modify the decision of the Director. The decision of the City Secretary is final.

Section 10. Penalties for Violations.

- (a) A violation of this ordinance shall be a misdemeanor and the penalty for violating this ordinance shall be as provided for by the City of Riesel, which shall be a minimum fine

of not less than \$50.00 nor more than a maximum fine of \$500.00, and each day a violation exists shall be a separate offense.

- (b) The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein.

Section 11.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 12.

If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.


Section 13.

That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Riesel, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 14.

That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND APPROVED by the City Council of the City of Riesel, Texas this 8th day of December 2009.



Dave Ross, Mayor
City of Riesel, Texas

ATTEST:


Beth Nolan, City Secretary