

ORDINANCE NO. 2810

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5, ARTICLE IX, "SWIMMING POOLS" OF THE CODE OF ORDINANCES OF THE CITY OF MESQUITE, BY ADDING SECTION 5-411 ENTITLED "ABANDONED, NEGLECTED, INOPERABLE, OR HAZARDOUS PRIVATE SWIMMING POOLS OR SPAS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR MAINTENANCE STANDARDS; PROVIDING FOR RELIEF FROM ABANDONED, NEGLECTED, INOPERABLE OR HAZARDOUS PRIVATE POOLS OR SPAS; PROVIDING A PENALTY CLAUSE, A SEVERABILITY CLAUSE; AND, DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Mesquite finds that abandoned, neglected, inoperable and improperly maintained private pools and spas represent a hazard to the health, safety and welfare of the citizens of Mesquite; and

WHEREAS, it is the intention of the City of Mesquite, Texas, to enact an ordinance designed to protect and enhance the public health, safety, and welfare of our citizens by establishing regulations for the maintenance of private pools or spas; and

WHEREAS, government is established to protect and enhance the public health, safety, and welfare.

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

SECTION 1. That Chapter 5, Article IX of the Code of the City of Mesquite is hereby amended by adding Section 5-411 entitled ABANDONED, NEGLECTED, INOPERABLE, OR HAZARDOUS PRIVATE SWIMMING POOLS OR SPAS to read as follows, in all other respects said Code and Chapter to remain in full force and effect.

I. General Provisions.

Any person who operates a private swimming pool or spa within the City of Mesquite shall maintain said pool or spa according to the provisions of this article. This article shall be liberally construed and applied to promote its underlying purpose of protecting public health.

II. Definitions.

1. Health Authority - shall mean the Health Official of the City of Mesquite or his designated representative.
2. Shall - the word "shall" whenever used in this article will be interpreted as mandatory; "may" is permissive.
3. Person - shall mean an individual, firm, partnership, association, corporation, company or organization of any kind.
4. Private pool - shall mean any swimming pool located on private single family residential property under the control of a property owner or legal occupant. The use of such pool is limited to the members of his family or their invited guests.
5. Swimming pool - shall mean any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, physical fitness, or recreational bathing. A spa is a swimming pool.
6. Spa - shall mean a small body of water, man-made, which is exclusively in conjunction with high velocity air and/or high velocity water recirculation systems, utilizing hot, cold, or ambient temperature water, including jacuzzis, hot tubs and whirlpools.
7. Private spa - shall mean a spa designed for recreational or therapeutic use located on private single family residential property under the control of a homeowner or legal occupant. The use of such spa is limited to members of his family or their private guests.

III. Abandoned, Neglected, Inoperable and Hazardous Private Swimming Pools and Spas.

- A. Any private pool or spa located within the City of Mesquite shall not remain in a condition so as to create a public health or safety hazard, or a nuisance to the general public. Any time a private pool or spa contains any amount of water, the owner or occupant of the premises must:

1. Maintain water clarity so that all parts of the bottom can be seen;
2. Maintain proper fencing as required under Section 5-408;
3. Maintain pool free of all foreign matter;
4. Secure and lock all access gates to any pool located on unoccupied property;
5. Prevent harborage or breeding places for insects or or rodents.

B. In the event that any inoperable, abandoned or neglected private pool or spa fails to meet the requirements of III, A, 1, 2, 3, 4, or 5, said pool or spa shall be deemed by the Health Authority to represent a safety hazard and/or a nuisance to the general public and the following shall apply.

1. No such pool or spa shall be allowed to remain in an inoperable, unsafe, insanitary or dangerous condition for more than ten (10) consecutive calendar days. Once an inoperable, unsafe, insanitary or dangerous private pool or spa comes to the attention of the Health Authority he shall make all reasonable effort to notify the owner(s) or legal occupant(s) to make corrections. In the event that no responsible party can be found, and/or the pool or spa remains in an inoperable, insanitary or dangerous condition, the City of Mesquite shall have the right to drain, fill, cap, and/or remove the pool or spa. Additionally, other repairs and/or work to abate the nuisance may be performed by the City. Any and all costs incurred by the City may be charged to owner of the property. Expenses incurred under this section may be assessed against the real estate on which the work or repair is done, by the Health Authority filing a statement of expenses with the County Clerk of Dallas County. The lien shall stand as security for expenditures made and interest on the lien shall accrue at a rate of ten (10) percent on the amount due from the date the expenditure was made by the City.

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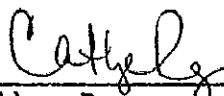
SECTION 2. Agents of the Health Authority, after proper identification, shall be permitted to enter upon the property and inspect any private pool or spa if there be just cause to suspect that said pool or spa is in violation of this article so as to pose a health or safety hazard to the public.

SECTION 3. That any person, firm or corporation violating any provision of this ordinance shall be deemed guilty of a Class C misdemeanor and upon conviction in the Municipal Court shall be subject to a fine not to exceed two thousand dollars (2,000.00) for each offense.

SECTION 4. That it is the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable; and if any phrase, clause, sentence or section of this ordinance shall be declared unconstitutional or invalid by the judgement or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining section, paragraph, sentence, clause or phrase of this ordinance.

SECTION 5. That the present ordinances of the City of Mesquite are not adequate to protect members of the public from the safety and health hazards of abandoned, inoperable, and neglected private pools and spas creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately after its passage and publication of said ordinance as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 18 day of May, A.D., 1992.

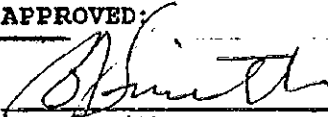


Cathye Ray
Mayor

ATTEST:



Lynn Prugel
City Secretary

APPROVED:


B.J. Smith
City Attorney