

ORDINANCE NO. 4109

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, BY DELETING ARTICLE XI IN ITS ENTIRETY AND ADDING A NEW ARTICLE XI THEREBY AMENDING THE OPERATIONS REGULATING PUBLIC AND SEMI-PUBLIC SWIMMING POOLS AND SPAS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

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

SECTION 1. That Chapter 5 of the Code of the City of Mesquite, Texas, is hereby amended by deleting Article XI in its entirety and adding a new Article XI to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

ARTICLE XI. PUBLIC AND SEMI-PUBLIC POOLS AND SPAS

Sec. 5-451. General provisions.

Any person who operates a public or semi-public swimming pool or spa within the City shall first obtain a permit from the health authority and shall comply with the requirements of this article. This article shall be liberally construed and applied to promote its underlying purpose of protecting public health.

Sec. 5-452. Definitions.

For the purpose of this article:

*Approved* means accepted as satisfactory under the terms of this article and given formal and official sanction by the approving authority.

*Combined residual chlorine ("chloramine")* means the amount of chlorine which has reacted with ammonia and other nitrogenous material to form chloroammonia compounds.

*Director* means the Director of Community Development or his organizational successor.

*Fecal coliform* means bacteria, through lab analysis, that is indicative of fecal pollution.

*Free residual chlorine* means the chlorine concentration, in milligrams per liter (equivalent to ppm – parts per million) of water, available for rapid and effective biocidal action. This is the chlorine which remains uncombined with nitrogenous compounds after the initial chlorine demand of the water has been satisfied.

*Health authority* means the health official of the City or his designated representative.

*Main drains* mean the outlet(s) at the deepest portion of the pool or spa.

*May* means permissive whenever used in this article.

*Operator* means the person ultimately responsible for the safe, sanitary maintenance of a public or semi-public pool and/or spa.

*Person* means an individual, firm, partnership, association, corporation, company or organization of any kind.

*Private pool* means 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.

*Private spa* means 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.

*Public pool* means any swimming pool other than a private pool which is open to the general public and intended to be used for swimming, bathing or other related purposes, and is operated by an owner, lessee, operator, licensee or concessionaire regardless of whether a fee is charged for its use.

*Public spa* means any spa other than a private spa that is open to the general public and designed for recreational or therapeutic use containing hot, cold, ambient or warmed water which uses high velocity water recirculation systems.

*Regulatory authority* means the health authority.

*Semi-public pool* means a swimming pool which is privately owned and available only to a recognizable group of people, patrons or customers to include but not be limited to motel guests, apartment residents and club members.

*Semi-public spa* means a spa which is privately owned and available only to a recognizable group of people, patrons or customers to include but not be limited to apartment, condominium or townhouse residents, hotel guests and health club members.

*Shall* means mandatory whenever used in this article.

*Spa* means a small body of water, manmade, 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.

*Swimming pool* means 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.

*Total residual chlorine* means the arithmetic sum of free available residual chlorine and combined residual chlorine.

*Turnover rate* means the amount of time required for a pool or spa circulation system to displace the entire volume of water in that pool or spa.

Sec. 5-453. Permits required.

- (a) A person commits an offense if he operates or causes to be operated a public or semi-public pool or spa within the City without a valid permit issued by the health authority.
- (b) A person who desires a permit to operate a public or semi-public pool or spa within the City shall make written application for said permit on forms provided by the health authority. Such application shall include: the operator's full name and street address, home number and whether such operator is an individual, firm, corporation or partnership. The application shall also include the location of the pool or spa, the size in gallons, the type of filter equipment, the type of disinfectant in use and such other information as may be required by the health authority.
- (c) No permit to operate a public or semi-public pool or spa will be issued until the pool or spa for which application for a permit is made is inspected by the health authority and found to be in compliance with the provisions of this article.
- (d) Where more than one pool or spa is operated on the same premises, a separate permit shall be required for each.
- (e) Permits shall be posted and available for review by the health authority.
- (f) Permits issued under provisions of this article shall not be transferable.
- (g) Permits issued under provisions of this article shall remain in force for one year from the date of issuance unless suspended or revoked.

Sec. 5-454. Permit fees.

- (a) A fee of \$150.00 shall be assessed for a permit to operate a public or semi-public swimming pool or spa. Where a person operates more than one pool or spa on the same premises, a fee of \$150.00 shall be assessed for a permit to operate the first, and a fee of \$100.00 shall be assessed for a permit to operate each additional pool or spa on the premises.
- (b) No permit fee shall be charged for any pool or spa located within or on a building, structure or premises the title of which is directly vested in the federal, state, county, or city government; however, such establishments shall comply with all other requirements of this article.

- (c) A late fee of \$50.00 shall be assessed for each permit which is not renewed within seven calendar days of the expiration date on the permit.

Sec. 5-455. Registered certified pool operator required.

- (a) Within 90 days of the effective date of this article, any person who operates a public or semi-public pool or spa shall employ at least one person who has a valid and current certified pool operator registration issued by the health authority.
- (b) A person who operates a public or semi-public pool or spa is in compliance with the provisions of this section if he has at least one full-time employee available for consultation, responsible for maintenance of said pool or spa, and who has a valid and current certified pool operator registration. Semi-public pools owned by homeowners associations or maintained by off-premises management companies shall utilize pool maintenance companies whose field employees are registered, certified pool operators. It shall be the responsibility of the permit holder to require and verify maintenance company's employees' registration and be able to document the use of registered pool operators to the satisfaction of the health authority.
- (c) The health authority shall issue a certified pool operator registration to any person who submits the required application, pays the required fee of \$10.00 and provides evidence of completion of an approved certified pool operator course. An approved certified pool operator course shall meet the following minimum criteria:
  - (1) The course shall have been completed within the previous three years.
  - (2) The course shall be taught by a person adequately trained in swimming pool sanitation, such as a public health official, a person trained in the life sciences, a biologist or chemist.
  - (3) The course curriculum shall include the following topics:
    - a. Swimming pool design;
    - b. Disinfection;
    - c. Circulation;
    - d. Filtration;
    - e. Swimming pool chemistry; and
    - f. Safety.
  - (4) Persons completing the course shall be given a document of certification by the course provider.

(d) Term, evidence and transfer of registration:

- (1) Unless sooner revoked by the health authority for cause as stated herein, a certified pool operator registration expires three years from the date of issuance.
- (2) The person operating a public or semi-public pool or spa shall provide evidence, at the request of the health authority, that a registered pool operator is employed.
- (3) A certified pool operator registration is not transferable.
- (4) *Denial or revocation of registration.* The health authority may refuse to issue or may revoke a certified pool operator registration only if the applicant or holder:
  - a. Has been convicted of preventing the lawful inspection of a public or semi-public pool or spa;
  - b. Makes a false statement of material fact in application for registration;
  - c. Was employed as a pool or spa operator where such pool or spa under his care was closed by order of the health authority two or more times within a two-year period or where the permit to operate a pool or spa under his care was revoked.

Sec. 5-456. Construction standards.

- (a) All public or semi-public pools or spas constructed within the City after the effective date of this article shall conform to the current adopted design standards of the Department of State Health Services for Public Swimming Pool Construction or Minimum Standards for Public Spas of the National Swimming Pool Institute; however, where such standards are less restrictive than the standards of this article or any other provision of the Code of the City, the more restrictive code shall govern.
- (b) All public or semi-public pools or spas undergoing repair or renovation within the City after the effective date of this article shall be repaired or renovated according to the provisions of Section 5-456(a) of this article.

Sec. 5-457. Water quality, maintenance and operation.

(a) *Disinfection.*

(1) *Swimming pools.*

- a. If chlorine is used as a disinfectant, a free available chlorine residual of at least 1.0 mg/l and not greater than 8.0 mg/l shall be maintained in all pools during hours of operation.

- b. If bromine is used as a disinfectant, the total residual shall be at least 2.5 mg/l and not greater than 12.0 mg/l.
- c. Pool disinfectant levels shall be tested at least two times per day and the results recorded. Testing shall be done:
  1. Before operational time begins; and
  2. During the mid-point of operational time.
- d. Cyanuric Acid (stabilizer) or Chlorinated Isocyanurate shall never exceed 100 mg/l in any public or semi-public pool or spa. If in use, this shall be tested at least once a week and recorded. Testing equipment shall be available and maintained.

(2) *Spas.*

- a. If chlorine is used as a disinfectant, a free available chlorine residual of at least 2.0 mg/l and not greater than 8.0 mg/l shall be maintained. If bromine is used as a disinfectant, the total residual shall be at least 4.5 mg/l and not greater than 12.0 mg/l.
- b. Spa disinfectant levels shall be tested every two hours during times of operation and each time the spa is opened for operation. The results of said testing shall be recorded.
- c. Bathers shall not be permitted in pools or spas when disinfectant residuals are below or above the required levels.

(b) *Required pH levels.*

1. pH levels shall be maintained between 7.0 and 7.8 while bathers are present.
2. pH levels shall be tested daily and recorded.
3. The use of carbon dioxide gas in an indoor pool or spa is prohibited.

(c) *Alkalinity.* The total alkalinity in a pool or spa shall not be less than 50 mg/l as CaCO<sub>3</sub>. This shall be tested weekly and the results recorded.

(d) *Water clarity.* Every pool or spa shall have clarity sufficient for the main drains at the deepest portion of a pool or spa to be readily visible. This shall apply at all times any quantity of water is in the pool or spa. Failure to meet this requirement shall constitute grounds for immediate closure of said pool or spa.

(e) *Bacterial water quality.* The presence of fecal coliform bacteria or a standard plate count of more than 200 bacteria per milliliter shall be deemed unacceptable water quality. Failure

to meet this requirement shall require immediate closure of the pool or spa and the initiation of corrective action.

- (f) *Foreign matter.* Pools and spas shall be maintained free of foreign matter including sediment, dirt, slime, algae and all other foreign matters.
- (g) *Water temperature.* Water in any heated pool or spa shall never exceed 104 degrees Fahrenheit. A thermometer shall be available to any heated pool or spa which measures temperatures in the range of at least 90 degrees to 110 degrees Fahrenheit in increments distinguishable to two degrees Fahrenheit. Water temperature controls shall not be accessible to pool or spa patrons. Temperature of heated pools and/or spas shall be checked at opening and the temperature in spas shall be checked every two hours while the spa is in use. All temperature measurements shall be recorded.
- (h) *Test kits.* The operator of a pool shall maintain a test kit capable of detecting disinfectant residual by the DPD method (dimethyl-p-phenylenediamine) and a test kit for measurement of pH to the nearest 0.2 pH units. Test kits shall also be available for the measurement of total alkalinity.
- (i) *Change of water in a spa.* Every public or semi-public spa shall be completely drained, backwashed, disinfected, cleaned and filled with fresh water at least once every seven calendar days when a spa is available for full or partial use in any seven-day period. This event shall be recorded.
- (j) *Turnover rates:*
  - 1. *Pools.* Swimming pools shall have a turnover rate of at least once every six-hour period.
  - 2. *Spas.* Spas shall have a turnover rate of at least once every 30 minutes.
- (k) The recirculation and filtration systems of public pools or spas shall be in operation and properly maintained at all times. All pumps, filters, chemicals, feeders, drains, ladders, lighting, ropes and other appurtenant equipment used in operations shall be maintained in good working condition. Filters shall be serviced and repaired according to manufacturer's specifications.
- (l) *Backwash, wastewater, overflow water.* All drainage from all public and semi-public pools and spas shall be discharged into the sanitary sewer system. Wastewater lines from a pool or spa shall be properly plumbed according to the latest edition of the adopted Plumbing Code.
- (m) *Backflow/cross connection control.*
  - (1) An approved type of backflow device shall be installed to any fresh water source leading to a public or semi-public pool or spa. These devices may include air gaps, anti-siphon valves and double-gate double checks.

- (2) No water hose or any source of fresh water supply may be placed in or below the overflow rim of a pool or spa.
- (3) Any hose bib within 50 feet of a pool or spa shall be fitted with an anti-siphon device.
- (n) *Lighting.* No public or semi-public pool or spa may be operated without proper lighting. A pool or spa shall be lighted so that the entire bottom is visible while it is available for use.
- (o) *Flow meter and pressure gauge.*
  - (1) All public and semi-public pools and spas shall have operational flow meters installed on the discharge side of the pump. This meter shall measure flow rate in gallons per minute and shall be kept in good repair.
  - (2) All public and semi-public pools and spas shall have at least one operational pressure gauge. If only one per circulation system exists, then it shall be placed on the systems filter or other location in the pump system as approved by the health authority. This shall measure pounds per square inch and be kept in good repair.
- (p) All recorded information required under this section shall be maintained and made available to the health authority upon request.

Sec. 5-458. Chemical storage and handling.

- (a) All chemicals, cleaning compounds and similar materials shall be stored off the ground in their original container in a cool, dry and well ventilated place, out of accessibility to patrons and children. Acids and bases shall be stored separately and protected from moisture.
  - (1) There shall be no smoking in any of the areas where any pool or spa chemicals are stored or are being applied.
- (b) The use of chlorine gas in a public or semi-public pool or spa is prohibited.

Sec. 5-459. General cleanliness and sanitation.

- (a) The room enclosure of any public or semi-public swimming pool or spa shall be kept in good repair and shall be maintained in a clean and sanitary condition.
- (b) Dressing rooms, shower rooms, toilet rooms and fixtures, equipment and chemical rooms, equipment, and concession and visitor areas shall be kept in good repair and shall be maintained in a clean and sanitary condition.
- (c) Soap dispensers, sanitary towels and trash receptacles shall be provided at lavatories.



- (d) The floors of dressing rooms, toilet rooms, showers and passageways of all swimming pools and spas shall be well drained and maintained in a clean and sanitary condition, and treated daily with an effective fungicide.
- (e) Toilet rooms, shower and locker rooms, and dressing rooms shall be well ventilated.
- (f) Hot water shall be available in showers and at lavatories.

Sec. 5-460. Safety provisions.

- (a) *Permissible bathing load.* Unless otherwise specifically authorized by the health authority, the maximum number of persons who may use the swimming pool or who may be permitted to be within the swimming pool room or enclosure at any one time shall not exceed the sum of the following:
  - (1) One person per 15 square feet (1.4 sq. m.) of water surface in the non-swimming areas, i.e., portions of the pool with a water depth of five feet (1.52 m.) or less; and
  - (2) One person per 25 square feet (2.3 m.) of water surface in the swimming areas, i.e., portions of the pool with a water depth greater than five feet; and
  - (3) One person per diving board.
- (b) *Fencing requirements.* Every public or semi-public pool or spa shall be enclosed by a fence, wall or other structure designed to effectively prevent entry by small children. Such fence or other structure shall be not less than five feet in height, with no openings other than doors or gates, larger than four inches, measured in a horizontal direction, and not more than a three-inch opening between the ground or surface and the bottom of the fence, wall or structure, and designed so as not to be easily climbable. All doors or gates opening directly into such enclosure shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping, such doors and gates securely closed at all times when not in actual use. Such latching device shall be located in the upper quarter of such door or gate; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure herein required need not be so equipped, if transparent. It shall be unlawful to maintain any public or semi-public pool or spa in the corporate limits of the City which is not fenced in accordance with the requirements of this section.
- (c) *Safety equipment.* The following safety equipment shall be readily available any time a public or semi-public pool contains water:
  - (1) A life pole or shepherd's crook pole of sufficient length to reach every part of the pool.

- (2) A guard line rope with buoyant floats separating the shallow portion of the pool from the deep portion of the pool at a depth of not more than five feet or at the breakpoint depth.
  - (3) A least one non-inflatable ring-type buoyant float with an attached rope of sufficient length to reach all parts of the pool.
  - (4) At least one unit of safety equipment [consisting of (1), (2) and (3) above] shall be provided for each 2,000 square feet (186 sq. m.) or fraction thereof of water surface area of the swimming pool.
- (d) *Lifeguard requirements.* All public pools shall be attended by at least one lifeguard who has been trained in and has demonstrated proficiency in first aid, life saving and resuscitation, during all hours of operation. At semi-public pools, where no lifeguard service is provided, a sign shall be posted in plain view, from any part of the pool, which states, "Warning – No Lifeguard on Duty." The sign shall be of legible letters at least four inches high. Also, a sign stating, "Children Should Not Use Pool Without an Adult in Attendance," shall be posted in four-inch high letters. A first aid kit shall be available and maintained.
- (e) A sign in legible letters listing pool rules, which shall at a minimum, include all applicable health and safety regulations enumerated in Sections 5-460(a), 5-460(g)(2) and (5), and Section 5-461(a) herein, shall be posted in distinct view of swimmers at all public and semi-public pools. In addition, this sign shall include "In Case of Emergency, Call 911," in at least four-inch high letters. There shall be an emergency telephone available in the pool area at all times.
- (f) *Drains.* All gratings and drain covers shall not be removable without the use of tools. All main drains of public or semi-public pools or spas shall meet one or more of the following criteria:
- (1) Shall be covered with a grate that has a minimum area equal to 144 square inches.
  - (2) Have separate main drains that are connected in parallel and cannot be individually closed off and are at least three feet apart from each other.
  - (3) Be covered with a drain cover certified A112.19.8-2007 ASME/ANSI. For spas and shallow wading pools the anti-vortex cover shall be installed and maintained in such a way as to prevent stubbing or tripping.
  - (4) Have a SVRS, or Suction Vacuum Release System, if the pool is four feet deep or less in addition to the dual drain covers specified in Section 5-460(f)(2).
- (g) *Depth markers.* All public and semi-public pools shall comply with the following:
- (1) All public and semi-public pools shall have and maintain depth markings in feet on both the deck and on the inner walls of the pool. Said markers shall be

required at one-foot depth intervals but not more than 20 feet apart around the area of the swimming pool which has a water depth of five feet or less;

- (2) Diving shall not be allowed in water five feet or less in depth and it shall be stated so by a sign(s) painted on the decks and universal symbols;
  - (3) In water depths greater than five feet, depth markers shall be set at intervals of every two feet in depth and at the maximum depth point;
  - (4) All letters and numbers shall contrast and shall be at least four inches in height and be slip resistant; and
  - (5) Only one person at a time shall be allowed on a diving board.
- (h) *Deck and pool equipment maintenance.* All public and semi-public pools and spas shall be maintained in such a manner as to not present a stubbing, cutting or tripping hazard to swimmers. No equipment in the immediate area of a pool or spa shall be placed or left as to present a hazard to swimmers.

Sec. 5-461. Regulations in pool and spa areas.

- (a) It shall be unlawful and an offense for any person:
- (1) To allow an animal under his or her control to enter or remain within a public or semi-public pool or spa area.
  - (2) Who has skin abrasions, open sores, skin disease, eye disease, nasal or ear discharge, or a communicable disease to swim in a public or semi-public pool or spa.
  - (3) To work at a public or semi-public pool or spa while infected with a communicable disease.
  - (4) To alter, abuse, destroy or remove safety equipment, fence barriers or gates from any public or semi-public pool or spa.
  - (5) To carry glass within a public or semi-public pool or spa area or enclosure (except for eye glasses).
  - (6) To intentionally contaminate, pour or discharge foreign materials or fluids that reduce water quality and/or the safety of a public or semi-public pool or spa.
  - (7) To consume food or drink while in the water of any public or semi-public pool or spa.

Sec. 5-462. Abandoned, neglected, inoperable and hazardous public or semi-public pools or spas.

(a) Any public or semi-public pool or spa, whether permitted or unpermitted 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 public or semi-public pool or spa contains any amount of water the operator shall:

- (1) Maintain water clarity so that all parts of the bottom can be seen;
- (2) Maintain proper fencing and barriers as required under this article;
- (3) Secure, chain and lock all access gates into unpermitted pools and spas; and
- (4) Prevent harborage or breeding places for insects or rodents.

(b) In the event that any inoperable, abandoned or neglected public or semi-public pool or spa fails to meet the requirements of Section 5-462(a)(1), (2), (3) or (4), said pool or spa shall be deemed by the health official 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, unsanitary or dangerous condition for more than 10 consecutive calendar days. Once an inoperable, unsafe, unsanitary or dangerous public or semi-public pool or spa comes to the attention of the health authority he shall make all reasonable efforts to notify the owner(s), manager(s) and/or operator(s) to make corrections. In the event that no responsible party can be found and/or the pool or spa remains in an inoperable, unsanitary or dangerous condition, the City 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 shall be charged to the 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 the county wherein the property is located. The lien shall stand as security for expenditures made and interest on the lien shall accrue at a rate of 10 percent on the amount due from the date the expenditure was made by the City.

Sec. 5-463. Inspections.

(a) The health authority shall inspect all public and semi-public pools and spas located in the City or its police jurisdiction and shall make as many inspections and reinspections as are necessary for enforcement of this article.

(b) Agents of the health authority, after proper identification, shall be permitted at any reasonable time to enter the property upon which any public or semi-public pool or spa exists for the purpose of making inspections to determine compliance with this article. Such agents shall be permitted to examine any records pertinent to the operation of said

pool or spa, including information about persons employed in the operation, and shall be permitted to obtain water samples as necessary for the purpose of determining water quality.

- (c) Application for and operation of a public or semi-public pool or spa within the City constitutes consent for the health authority to enter the premises upon which said pool or spa exists and perform inspections to determine compliance with this article. It shall be unlawful and an offense for any person to physically prevent or otherwise obstruct the lawful inspection of a public or semi-public pool or spa by the health authority. In addition, it shall be unlawful and an offense for any person to willfully provide false information to the health authority as it relates to enforcement of the provisions of this article.
- (d) Whenever an inspection is made of a public or semi-public pool or spa, the findings shall be recorded on an inspection report form provided by the health authority. The original of the inspection report form shall be furnished to the owner or person in charge of said pool or spa, and shall constitute written notice of any violations of this article present at the time of inspection.

Sec. 5-464. Suspension, denial or revocation of operational permit.

(a) *Denial, suspension or revocation of permit.*

- (1) The health authority shall have the right to deny or temporarily suspend a permit to operate a public or semi-public pool or spa for the following reasons:
  - a. The annual permit fee is not paid; or
  - b. The permit holder or applicant fails to have in his employee a certified/registered pool operator according to the requirements of this article; or
  - c. The permit holder or applicant fails to keep all pool and spa equipment properly maintained as to comply with the requirements of this article; or
  - d. The condition of the pool or spa, due to poor water quality, lack of safety equipment, structural deficiencies or hazards, and/or improper wastewater disposal, is deemed by the health authority to be hazardous to the health or safety of swimmers, the environment or to the general public; or
  - e. The permit holder or applicant, after receiving notification of violation from the health authority, fails to correct the violation within a time frame specified by the health authority; or
  - f. The permit holder or applicant prohibits the health authority from conducting a lawful inspection; or

- g. The permit holder or applicant, or the certified pool operator in his employment, provides false information or falsified documentation to the health authority as it relates to the provisions of this article.
- (2) The permit shall remain suspended or denied until all causes of suspension or denial have been corrected. The health authority shall post signs at the pool or spa entrance stating that the pool or spa is closed by authority of the health department. Said signs shall remain posted until removed by the health authority.
  - (3) The health authority may permanently revoke a pool or spa permit for any of the following reasons:
    - a. The permit holder violates any of the provisions of this article, which the permit holder fails to correct after having received notice of such violation from the health authority; or
    - b. The permit holder fails or refuses to comply in a timely manner with any final notice or order of the health authority suspending a permit or the appellate decision of the Director, including any conditions thereof; or
    - c. The permit holder, his employees, agents or pool operator remove, cover or conceal signs posted by the health authority.
- (4) Upon denial, suspension or revocation of a permit, the applicant or permit holder shall be notified in writing of the decision to deny, suspend or revoke said permit, of the reasons of such denial, suspension or revocation and of the applicant or permit holder's right to appeal.
  - (5) An applicant or permit holder shall have the right to appeal the decision to deny, suspend or revoke a permit by submitting to the health authority, within 10 business days of the receipt of notice of denial, suspension or revocation, a written request for a hearing before the Director. If a written request for a hearing is not received within 10 business days, the action of the health authority is final.
- (b) *Appeals; powers and duties of the Director.*
- (1) Within 10 business days following the receipt of a request for an appeal, the Director shall provide a hearing at a time and place designated by him. The Director may continue the hearing for the convenience of either party or for the purpose of securing relevant evidence or witnesses.
  - (2) The Director shall have the authority to sustain, modify or rescind any official notice or order issued by the health authority as provided by respective City Code. The Director's action to sustain, modify or rescind the decision of the health authority may be conditioned upon a requirement that the permit holder undertake repairs or improvements by a date certain that the Director deems necessary to correct any inoperable, unsafe, unsanitary or dangerous condition.

- (3) The Director shall render his decision in writing, and a copy of the decision shall be furnished to the permit holder by the health authority.

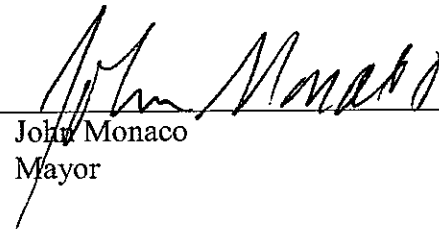
SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

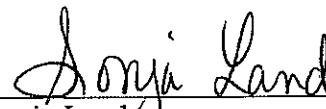
SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court, shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

SECTION 5. That this ordinance shall be effective immediately on and after its passage.

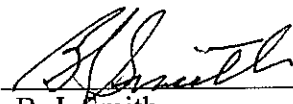
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of September, 2010.

  
\_\_\_\_\_  
John Monaco  
Mayor

ATTEST:

  
\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED:

  
\_\_\_\_\_  
B. J. Smith  
City Attorney