

AN ORDINANCE REPEALING FRISCO ORDINANCE NO. 02-12-138; ADOPTING THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES STANDARDS FOR PUBLIC POOLS AND SPAS OF THE TEXAS ADMINISTRATIVE CODE, TITLE 25 (HEALTH SERVICES), PART 1 (DEPARTMENT OF STATE HEALTH SERVICES), CHAPTER 265 (GENERAL SANITATION), SUBCHAPTER L (STANDARDS FOR PUBLIC POOLS AND SPAS), AS AMENDED HEREIN; ADOPTING REGULATIONS FOR THE OPERATION AND MAINTENANCE OF ALL PUBLIC AND SEMI-PUBLIC SWIMMING POOLS WITHIN THE CITY; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it will be advantageous and beneficial to the City of Frisco, Texas ("Frisco") and its inhabitants to repeal Frisco Ordinance No. 02-12-138 for the purpose of establishing additional and/or more comprehensive regulations for public and semi-public pools in Frisco; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to adopt the Texas Department of State Health Services Standards for Public Pools and Spas, adopted by the Texas Board of Health in Title 25 (Health Services), Texas Administrative Code, Part 1 (Department of State Health Services), Chapter 265 (General Sanitation), Subchapter L (Standards for Public Pools and Spas), as amended herein and as may be amended by the Texas Department of State Health Services as set forth below.

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

SECTION 1: FINDINGS INCORPORATED. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: REPEAL OF FRISCO ORDINANCE NO. 02-12-138. Frisco Ordinance No. 02-12-138 is hereby repealed for the purpose of establishing additional and/or more comprehensive regulations for the design, construction, operation, repair and maintenance of all public and semi-public swimming pools within Frisco. Such repeal shall not abate any pending prosecution for violation of the repealed Ordinance No. 02-12-138, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of Ordinance No. 02-12-138.

SECTION 3: PURPOSE. The purpose of these rules is to, among other things, safeguard public safety and provide patrons a pool that is safe to occupy within reasonable means. These rules and regulations are considered and found to be good public health engineering and safety practices

SECTION 4: ADOPTION OF THE DEPARTMENT OF STATE HEALTH SERVICES STANDARDS FOR PUBLIC POOLS AND SPAS, TITLE 25 (HEALTH SERVICES), TEXAS ADMINISTRATIVE CODE, PART 1 (DEPARTMENT OF STATE HEALTH SERVICES), CHAPTER 265 (GENERAL SANITATION), SUBCHAPTER L (STANDARDS FOR PUBLIC POOLS AND SPAS). The Texas Department of State Health Services Standards for Public Pools and Spas, adopted by the Texas Board of Health in Title 25 (Health Services), Texas Administrative Code, Part 1 (Department of State Health Services), Chapter 265 (General Sanitation), Subchapter L (Standards for Public Pools and Spas), which establishes regulations for the design, construction, operation, repair and maintenance of all public and semi-public swimming pools, are hereby adopted, save and except the amendments set forth below (the "Texas Department of Health Pool Rules"). The Texas Department of Health Pool Rules, save and except the amendments set forth below, are made a part of this Ordinance as if fully set forth herein. Copies of the Texas Department of Health Pool Rules are on file in the office of the City Secretary of Frisco being marked and designated as the Texas Department of Health Pool Rules, published by the Texas Board of Health, General Sanitation Division. Frisco amends the Texas Department of Health Pool Rules as follows:

A. Section 265.182 (Definitions) is amended as follows:

75. Local regulatory authority -- the City of Frisco, Texas.

B. Section 265.183 (Plans, Permits and Instructions for post-10/1/99 pools and spas) is amended as follows:

(a) ***Plans and permits for post-10/01/99 pools and spas.*** The local regulatory authority shall review all applicable permitting and plan submittal documents for post 10/1/99 pools, spas, water features and facilities in order to ensure compliance regarding enforcement issues. The local regulatory authority requires that a registered professional engineer approve the design and construction of pools, spas, water features, and facilities. Regardless of whether a regulatory authority requires plans or permits, pools and spas shall be designed, constructed, and operated in compliance with the Texas Department of Health Pool Rules.

All Commercial Pools and Spas shall be designed by a registered Professional Engineer in the State of Texas and all drawings and documentation must be signed and sealed. Design Engineers must be registered with the City and provide proof of Professional Liability Insurance with a minimum coverage of one million dollars (\$1,000,000.00). The professional engineer shall certify that pools, spas, water features, and facilities are designed, built, and operate in compliance with these rules and with applicable federal, state, and/or local regulatory requirements. Documentation shall

include:

(1) *Pre-Construction document signed and sealed referencing project name/address, pool builder name/address, and owner name/address.* The Pre-Construction Certification requires the Design Engineer to certify that the submitted plans/blueprints and specifications for the described swimming pool(s) and/or spa(s) and/or other water/play features and associated facilities meet or exceed the requirements detailed in Sections 265.184 through 265.201 and 265.205 of the Texas Department of State Health Services Standards for Swimming Pools and Spas adopted July 1, 2004 , to be effective Sept 1, 2004- except that Jan 1, 2005 is the effective date under Section 265.190(e). Furthermore, the Design Engineer shall certify the accuracy of the calculations and design values. The Pre-Construction Certification shall include calculations and design values for pool volume (gals), turnover rate (hours), flow rate (gals per min.), total dynamic head (feet of head), maximum velocity in suction lines at designed flow (feet per sec.), maximum velocity in return lines at designed flow (feet per sec.), maximum velocity at main drain grate (min. 24" diagonal) at designed flow (feet per sec.), maximum flow through remaining drain grate with one main drain blocked (feet per sec.), maximum design flow rate at main drain with approved covers (gals. per min.), main drain cover approved flow rate (stamped on cover) (gals. per min.), maximum flow through remaining drain cover with one main drain blocked (gals. per min., feet per sec.), required skimmers (#), required return inlets (#) and bather loads (pool and spa) (#).

(2) *Post-Construction document signed and sealed referencing project name/address, pool builder name/address, and owner name/address.* The Post-Construction Certification requires the Design Engineer to examine and certify that the completed and installed swimming pool(s) and/or spa(s) and/or other water/play features and associated facilities at the described location meet or exceed the requirements detailed in Sections 265.184 through 265.201 and 265.205 of the Texas Department of State Health Services Standards for Swimming Pools and Spas, adopted July 1, 2004 , to be effective Sept 1, 2004- except that Jan 1, 2005 is the effective date under Section 265.190(e). Furthermore, the Design Engineer shall certify the accuracy of the calculations and design values. The Pre-Construction Certification shall include calculations and design values for pool volume (gals), turnover rate (hours), flow rate (gals per min.), total dynamic head (feet of head), maximum velocity in suction lines at designed flow (feet per sec.), maximum velocity in return lines at designed flow (feet per sec.), maximum velocity at main drain grate (min. 24" diagonal) at designed flow (feet per sec.), maximum flow through remaining drain grate with one main drain blocked (feet per sec.), maximum design flow rate at main drain with approved covers (gals. per min.), main drain cover approved flow rate (stamped on cover) (gals. per min.), maximum flow through remaining drain cover with one main drain blocked (gals. per min., feet per sec.), required skimmers(#), required return inlets(#) and bather loads (pool and spa) (#).

C. Section 265.186. (Decks, Entry/Exit, Diving Facilities and Other Deck Equipment at Post-10/1/99 and Pre-10/1/99 Pools and Spas) is amended as follows:

(a)(14) Deck(s) shall be sloped to effectively drain to perimeter areas or to deck drains. Drainage shall remove pool and spa splash water, deck cleaning water and rainwater without leaving standing water deeper than one-eighth (1/8) inch. Drains removing all water on deck(s) shall be routed to the storm sewer system or as otherwise approved by current local Plumbing Code, as amended. Water from deck drainage shall not be mixed with pool or spa water.

D. Section 265.187 (Circulation Systems for Post-10/01/99 and Pre-10/01/99 Pools and Spas) is amended as follows:

(a) ***Suction outlet covers or grates for post-10/01/99 and pre-10/01/99 pools and spas.*** Suction outlet covers or grates must be provided for post-10/01/99 and pre-10/01/99 pools and spas in accordance with Section 265.190(c) of this title (relating to Suction Outlets and Return Inlets in Post-10/01/99 and Pre-10/01/99 Pools and Spas). If the owner or operator of a post-10/01/99 or pre-10/01/99 pool or spa knows or should have known in the exercise of ordinary care that a suction outlet cover or grate is missing, broken, or loose, the pool or spa must be closed immediately and the pump(s) must be shut off. The pool or spa must remain closed until a proper repair or replacement has been accomplished. Repair must be inspected by the local regulatory authority before the pool or spa is allowed to reopen.

E. Section 265.188 (Filters) is amended as follows:

(h) ***Backwashing for post-10/01/99 and pre-10/01/99 pools and spas.*** All backwash systems shall be discharged to the sanitary sewer system through an approved p-trap unless prior approval for alternate disposal is obtained from the local regulatory authority. *See also* Section 265.196.

F. Section 265.190 Suction Outlets and Return Inlets at Post-10/01/99 and Pre-10/01/99 Pools and Spas.

(d) ***Suction outlets in post-10/01/99 pools and spas.***

(1) In post-10/01/99 pools and spas, at least two hydraulically balanced suction outlets (suction fittings) with approved covers or grates per pump suction line, must be provided for each suction line. Multiple sets of pump suction lines are permitted in two or more suction outlets as long as they are hydraulically balanced and meet the requirements of subsection (c) of this section. The distance between the drain covers or grates of the suction outlet fittings must be no less than three (3) feet, inside edge of the cover or grate to inside edge of the cover or grate, and no more than twenty (20) feet apart. Suction outlets that are main drains shall be located at the lowest point of the pool or spa floor. No means of isolating hydraulically balanced suction

outlets is permitted that could allow one suction outlet to serve as the sole source of water to a pump. A single pipe to a pump suction inlet that serves two or more suction outlets may have a valve to shut off the flow to the pump.

(e) ***Upgrading suction outlet systems on pre-10/01/99 pools and spas.***

(1) In a pre-10/01/99 pool or spa, suction outlets that are four (4) feet deep or less, as measured from the normal water level to the suction outlet, must have for each suction system:

(A) dual hydraulically balanced suction outlets with approved covers as described in subsection (c)(1) or approved grates as described in subsection (c)(4) of this section with a distance between the suction outlet fittings no less than three (3) feet, inside edge of the cover or grate to inside edge of the cover or grate, and no more than twenty (20) feet, and either an AVS or SVRD as described in subsection (d)(3) of this section;

(C) dual hydraulically-balanced, suction outlets with a distance between the suction outlet fittings no less than three (3) feet, inside edge of the cover or grate to inside edge of the cover or grate, and no more than twenty (20) feet, each with a minimal diagonal measurement of twenty-four (24) inches and a flow velocity through the open area of the grate that does not exceed 1.5 feet per second.

(3) In a pre-10/01/99 pool or spa, suction outlets that are more than four (4) feet deep, as measured from the normal water level to the suction outlets, must have, for each suction system:

(A) two or more hydraulically-balanced suction outlets with a distance between the suction outlet fittings no less than three (3) feet, inside edge of the cover or grate to inside edge of the cover or grate, and no more than twenty (20) feet, each with a minimum diagonal measurement of twenty-four (24) inches and a flow velocity through the open area of the grate that does not exceed 1.5 feet per second.

G. Section 265.196. Waste Water Disposal at Post-10/01/99 and Pre-10/01/99 Pools and Spas is amended as follows:

(a) ***Filter backwash disposal for post-10/01/99 and pre-10/01/99 pools and spas.*** Filter backwash water and pool or spa drainage water from post-10/01/99 and pre-10/01/99 pools and spas shall be discharged or disposed of in accordance with the International Plumbing Code as adopted by the local regulatory authority.

H. Section 265.199 (Specific Safety Features) is amended as follows:

(c) ***Depth markers for post-10/01/99 pools.*** Post-10/01/99 pools shall have markers showing depth and unit of measurement for the depth, complying with the following:

(2) Depth and unit markers number and unit markers on decks shall be slip-resistant tile, flush mounted, placed within twenty-four (24) inches of the waters edge, and positioned to be read while standing on the deck facing the water. Spray paint, painted on and vinyl lettering units of measurements are prohibited.

(d) ***Depth markers for pre-10/1/99 pools.*** Pre-10/1/99 pools shall have markers that comply with the following:

(2) Pre-10/01/99 depth markers and any unit markers shall be slip-resistant, flush mounted, placed within twenty-four (24) inches of the waters edge, and positioned to be read while standing on the deck facing the water. Spray paint, painted on and vinyl lettering units of measurements are prohibited. Pre-10/01/99 existing vinyl lettering may be continued to be used as deck depth markers, units of measurement and required signage. In addition to any other requirement herein, slip-resistant tile markers, flush mounted shall be mandated in place of the vinyl lettering if any one of the following conditions occurs:

(A) Three (3) consecutive inspections performed by the local regulatory authority note a deficiency in the vinyl lettering. A deficiency shall include, but is not limited to, a vinyl letter which is damaged, missing or illegible;

(B) If the local regulatory authority reasonably deems that there is a safety hazard, whereby installing the slip-resistant, flush-mounted tiles, would abate, correct or prevent the hazard;

(C) Renovations to the pool area, including amenity center, pools(s), spas or pool enclosure exceeding thirty percent (30%) of the square footage of the pool area;

(D) Failure of property owner, or its designee, to obtain an approved Certificate of Occupancy; or

(E) Violation(s) of any provision of this Ordinance.

(f) ***Signs for post-10/1/99 and pre-10/1/99 pools.***

(1) Post-10/1/99 and pre-10/1/99 pools shall comply with the following sign requirements:

(C) For pools where no lifeguard service is required, a warning sign shall be placed in plain view and shall state "WARNING-NO LIFEGUARD ON DUTY" with clearly legible letters at least 4 inches high. In addition, the sign shall also state in

letters at least 2 inches high "CHILDREN SHOULD NOT USE POOL WITHOUT ADULT SUPERVISION". The sign shall also state "ADULTS SHOULD NOT SWIM ALONE", "NO GLASS IN POOL AREA", "SWIMMERS MUST SHOWER BEFORE ENTERING POOL/SPA" and "NO ANIMALS IN POOL AREA". The additional signage required in this subsection may be included on the sign described in paragraph (2) of this subsection. The language on the sign may impose stricter adult supervision requirements for children using the pool.

(D) When a required telephone is not readily visible from a post-10/1/99 or pre-10/1/99 pool or spa, directions shall be posted regarding its location as stated in subsection (j) of this section. When the required telephone or electronic means does not have immediate dial tone operation, clear instructions regarding the exact operation shall be legibly provided on a sign and located at the telephone. The local regulatory authority shall approve the wording of all required signs.

(j) ***Telephones at post-10/1/99 and pre-10/1/99 pools and spas.*** Post-10/1/99 and pre-10/1/99 pools and spas shall have a telephone or other electronic means approved by the local regulatory authority capable of immediately summoning emergency service readily accessible within one-hundred (100) feet from the pool or spa water. The telephone or other approved electronic means shall be located at the same address as the pool(s) and spa(s). Any electronic means of summoning emergency service will qualify as a telephone if clear instructions for its use are provided by signage. A telephone that is answered by an on-site office does not meet the requirements of this subsection. A sign in plain view of the pool or spa shall state in letters at least four (4) inches high: "IN CASE OF EMERGENCY CALL 911 (or other appropriate emergency number or action)." A sign shall be placed at the telephone or other approved electronic means of summoning emergency service stating the address of the pool. The following shall also apply to telephones for post-10/01/99 and pre-10/01/99 pools and spas:

(5) Regardless of where the telephone is located or whether the gate(s) or door(s) are locked, a sign must be installed inside the pool yard or spa yard in plain view of the pool or spa and state in at least four (4) inch high letters: "IN CASE OF EMERGENCY, DIAL 911" (or other appropriate emergency number or action). If the telephone is not readily visible from the pool or spa, the sign inside the pool yard shall include a concise description of the location of the telephone.

I. Section 265.200 (Pool Yard Enclosures) is amended as follows:

(b) ***Enclosures for post-10/01/99 or pre-10/01/99 Class C pools and spas and Class D pools at Class C facility that are subject to Health and Safety Code,***

Chapter 757.

(1) The pool yard or spa yard enclosure for a post-10/01/99 or a pre-10/01/99 pool or spa is recommended to have a minimum perpendicular height of at least seventy-two (72) inches as measured from the ground surface on the outside of the fence.

(c) ***Enclosures for all other post-10/01/99 or pre-10/01/99 Class C pools and spas and Class D pools at Class C facilities.***

(1)(A) The enclosure is recommended to have a minimum perpendicular height of at least seventy-two (72) inches as measured from the ground surface on the outside of the fence.

J. Section 265.201 (Dressing and Sanitary Facilities at Post-10/1/99 and Pre-10/1/99 Pools and Spas is amended as follows:

(f)(3) ***Shower(s) and lavatory(s) water temperature shall be controlled by anti-scald devices.*** The water heater and thermostatically-controlled mixing valves shall be inaccessible to users and shall be capable of providing two gallons per minute of water, not to exceed 110 degrees Fahrenheit with a minimum of 90 degrees Fahrenheit water to each shower head. A shower can be located on the deck of the pool if proper wastewater disposal is provided as approved by the local regulatory authority. Construction of the shower drain shall be in accordance with the local Plumbing Code, as amended, and shall be constructed to minimize the entrance of storm water. The shower need not be enclosed in Class C pools.

(g) ***Sanitary facilities serving post-10/1/99 pools or spas in hotels, motels or condominiums.*** Post-10/01/99 Class C and D pools and spas located in a hotel, motel or condominium complex are not required to have the following facilities

- (3) Deleted.
- (5) Deleted.
- (7) Deleted.

K. Section 265.203 Operation and Management of Post-10/1/99 and Pre-10/1/99 pools and Spas is amended as follows:

(a) ***Required operator certification and training for certain types of post-10/01/99 and pre-10/01/99 pools and spas.*** Post-10/01/99 and pre-10/01/99 Class A or B pools and Class D pools operated in conjunction with a Class A or B pool, as well as post-10/01/99 and pre-10/01/99 Class C or D pools and spas located at Class C facilities, shall be maintained under the supervision and direction of a properly trained and certified operator who is responsible for the sanitation, safety, and proper maintenance of the pool or spa, and for maintaining all physical and mechanical equipment and records. Training and certification can be obtained by completion of

one of the following courses or their equivalent:

- (1) the NRPA, "Aquatic Facility Operator" (A.F.O.);
- (2) the NSPF, "Certified Pool-Spa Operator" (C.P.O.);
- (3) YMCA, "Pool Operator on Location" (P.O.O.L.);
- (4) the NSPI, "Professional Pool & Spa Operator" (P.P.S.O.); or
- (5) the ASPSA, "Licensed Aquatic Facility Technician" (L.A.F.T.).

L. Section 265.204 (Water Quality at Post-10/1/99 and Pre-10/1/99 Pools and Spas) is amended as follows:

(c) ***Testing frequency for post-10/1/99 and pre-10/1/99 pools and spas.***

When a post-10/01/99 or pre-10/01/99 Class A or B pool is open for use or when a post-10/01/99 or pre-10/01/99 Class D pool operated in conjunction with a Class A or B pool or spa is open for use, a test for disinfectant level and pH shall be conducted at least every 2 hours to assure compliance with subsection (a) of this section relating to required water quality parameters. In lieu of the above testing frequency, if a system is used to automatically control disinfectant and pH, testing for disinfectant level and pH shall be made once per day. If necessary, tests shall be conducted more frequently to assure proper disinfectant level and pH.

When a class C or D pool or spa located at a Class C facility is open for use, it shall be required that tests for disinfectant level, and pH be made two or more times per day to assure compliance with subsection (a) of this section relating to water quality parameters. In lieu of this testing frequency, if an automatic system is used to control disinfection and pH, it shall be required that testing for disinfection and pH be made at least once per day. To assure proper disinfectant levels and pH, tests shall be conducted more frequently if necessary. If inspections by regulatory authorities indicate non-compliance with subsection (a) of this section relating to water quality parameters, then the local regulatory authority may require that these tests be done at an appropriate frequency and may require recording in accordance with subsection (e) of this section.

(d) ***Other required tests for post-10/01/99 and pre-10/01/99 pools and spas.***

Test(s) for total chlorine, cyanuric acid, alkalinity and hardness at post-10/01/99 and pre-10/01/99 pools and spas shall be conducted as necessary to assure proper chemical control. A test for cyanuric acid shall be conducted a minimum of one time during the operating season.

(f) ***Microbiological quality standards.*** Microbiological examination may be requested when deemed necessary by Frisco. These samples shall be examined in accordance with the procedures described in the latest edition of Standard Methods for the Examination of Water and Wastewater, or as amended, (APHA, AWWA, and WPCF). All related fees shall be paid by the owner/operator of the pool or spa.

M. Section 265.205 (Spa Construction, Operation, and Maintenance) is amended as follows:

(f) ***Other safety related requirements for post-10/1/99 and pre-10/1/99 spas.***
Post-10/1/99 and pre-10/1/99 spas shall comply with the following.

(4)(B) There shall be a minimum of two (2) deck depth markers per spa, regardless of spa size or shape. There shall also be an International No Diving Symbol in slip resistant tile, flush mounted every twenty-five (25) feet around new and existing spas. In no event shall there be less than two (2) International No Diving Symbols located at each new and existing spa.

(4)(F) Deck depth markers in or on the deck surfaces shall be slip-resistant tile, flush mounted.

(7) *Signs.* Signs for post-10/1/99 and pre-10/1/99 spas shall be securely mounted and readily visible to the spa user from inside the spa enclosure. Signage shall state the following:

(F) "ALCOHOL SHOULD NOT BE CONSUMED PRIOR TO OR WHILE USING SPA"

N. Section 265.208 (Enforcement) is amended as follows:

(a) If inspections by the local regulatory authority determine that a person has caused, suffered, allowed or permitted a violation of Health and Safety Code 341.064 or any of these rules, the department or local regulatory authority may, among other things, in accordance with Health and Safety Code 341.092, assess civil penalties, seek injunctive relief in district court, or both.

If inspections by the local regulatory authority determine that the operation or maintenance of the pool, spa, or facility constitutes a serious health or safety hazard for the user, the local regulatory authority may request voluntary immediate closure, perform involuntary closure, seek injunctive relief in district court, and/or use any other enforcement methods and/or remedies available. The local regulatory authority may take any and all appropriate legal remedies available to it including, but not limited to, immediately posting the pool closed. Whenever a pool voluntarily closes or is required to cease operation at any time, all access to the pool shall be restricted and a notice shall be posted at every entrance notifying the public that the pool is closed until further notice. Whenever a pool closes by mandate of the local regulatory authority or is required to cease operation, all access to the pool shall be restricted and a notice shall be posted at every entrance notifying the public that the pool is closed until further notice. Whenever a pool is involuntarily closed, operation can only be resumed when evidence is presented that all deficiencies that caused closure have been corrected and if explicitly authorized by the local regulatory authority. Such evidence may be in the form of a reinspection by the local regulatory authority.

authority, or by other evidence acceptable to the local regulatory authority.

(f) The City of Frisco Chief Building Official, or his/her designee, shall be responsible for the enforcement of the terms of this Ordinance.

SECTION 5: OFFENSES.

A person, firm, corporation or business entity commits an offense if:

- (a) they violate any provision of this Ordinance;
- (b) they violate any of the posted signs as required by this Ordinance;
- (c) the owner or designated manager of such pool knowingly allows the pool to be used for swimming, diving or bathing purposes when it is closed or posted closed, whether voluntarily or involuntarily; or
- (d) they occupy the pool area at any time the pool is closed, whether voluntarily or involuntarily.

SECTION 6: REVOCATION OR SUSPENSION OF OPERATING PERMIT.

(a) Frisco may deny, revoke, or suspend any operating permit for failure of the applicant to comply with the provisions of this Ordinance, or in cases where the operating permit has been obtained through non-disclosure, misrepresentation or misstatement of a material fact.

(b) All notices or orders issued pursuant to this Section shall be either delivered personally or sent by certified mail to the person or corporation to whom the permit was issued or to the person in charge of the subject premises (the manager). Except in cases of emergency or urgent public necessity, such notice shall be delivered or mailed at least ten (10) days before any operating permit is revoked or suspended and shall state the reason(s) for such proposed revocation or suspension and notify that person of a right to appeal under Section 6 of this Ordinance.

(c) A Permit To Operate, which has been revoked or suspended, may be reissued upon proper application and upon presentation of evidence that the deficiencies, violations and/or irregularities, which caused the revocation or suspension, have been corrected.

(d) If Frisco determines that the operation or maintenance of any swimming pool constitutes an imminent hazard to the health and/or safety of the public, the Permit To Operate shall be suspended immediately, and the swimming pool shall be closed for use and shall remain closed until the necessary remedial action has been successfully completed. Frisco shall make an inspection to ensure compliance with this Ordinance.

SECTION 7: APPEALS. Any appeal from a final order or notice issued in connection with the requirements of this Ordinance must be in writing and received by the Frisco Chief Building Official within fifteen (15) days after the date of said order or notice. The Frisco Chief Building Official will render a decision within ten (10) days of his/her

receipt of the appeal. If the appellant disputes the Chief Building Official's decision, the appellant may appeal, in writing, to the Frisco City Manager within five (5) days of the date of the Frisco Chief Building Official's decision. The Frisco City Manager will render his/her decision within ten (10) days of his/her receipt of the appeal, and the decision of the Frisco City Manager is final. The Frisco City Manager's failure to render a decision within the ten (10) day time period shall be deemed a denial of the appeal.

SECTION 8: ADMINISTRATIVE PROCESS/ISSUANCE OF PERMIT TO OPERATE.

(a) No person shall operate a swimming pool unless a valid permit to operate said swimming pool has been obtained from Frisco; provided, however, pools and spas which are subject to §265.206, Texas Department of Health Pool Rules, will not be required to obtain the permit described in this Section 8. Such permit for each and every swimming pool and/or spa, unless otherwise revoked or suspended as prescribed herein, shall be valid from the date of issuance through March 31st of the following year. Each permit will cost \$225.00 for each and every pool and/or spa if paid by March 31st of each year. If paid by April 30th, the fee shall be \$325.00/permit; by May 31st, the fee shall be \$425.00/permit. After May 31st, the fee shall be \$500.00/permit. If, upon the first inspection, fees have not been paid, the pool will be closed until compliance with this Ordinance is met. A separate application and fee shall be submitted for each operational permit sought. A separate pool is determined by separate pump and filter equipment.

(b) Applications for a permit to operate a swimming pool shall be made to Frisco on application forms prescribed and provided by Frisco. The applicant shall certify that he/she is knowledgeable about and understands the contents of this Ordinance and further that he/she understands and is capable of operating the swimming pool for which the operating permit is requested.

(c) Frisco shall require that applicants for an operating permit of a swimming pool and/or spa provide proof of knowledge of proper operation and maintenance of pool(s) and spa(s) by attaching a copy of one (1) operator certification as described in Section 265.203(a) to the application for permit to operate. Applications submitted without required certification will not be accepted.

(d) Frisco shall require an inspection of the pool and/or spa prior to March 31st of each year. This inspection shall be required prior to the approval of the Permit To Operate each year. Should any pool and/or spa fail the annual inspection, the owner of the subject pool and/or spa is responsible for remedying the issues, which resulted in the failed inspection, and obtaining a satisfactory re-inspection from Frisco prior to the March 31st deadline and before the issuance of a Permit To Operate. Each re-inspection will incur a fee of \$50.00 and must be paid prior to re-inspection. The Permit To Operate will be approved when each pool and/or spa is/are in full compliance with this Ordinance.

(e) The Frisco Permit To Operate shall expire on March 31st of each year. It is the responsibility of the pool/spa operator/owner to request the inspection and to apply for the

Permit To Operate prior to March 31st each year (f) Once the inspection is approved, the application for Permit To Operate is submitted and appropriate fees are paid, Frisco will release the Permit To Operate.

SECTION 9: PENALTY PROVISION Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies to it pursuant to local, state and federal law.

SECTION 10: SAVINGS/REPEALING CLAUSE. In any case where a provision of this Ordinance is found to be in conflict with a provision of any ordinance or other regulation of Frisco existing on the effective date of this Ordinance, the provision that establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance or regulation of Frisco existing on the effective date of this Ordinance which establishes a lower promotion and protection of the health and safety of the people, the provisions of this Ordinance shall be deemed to prevail, and such other ordinances or regulations are hereby declared to be repealed to the extent that they may be found in conflict with any provisions of this Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 11: SEVERABILITY. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 12: EFFECTIVE DATE. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this 21st day of February, 2006.


MIKE SIMPSON, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:

APPROVED AS TO FORM:



NAN PARKER
City Secretary



ABERNATHY, ROEDER, BOYD & JOPLIN, P.C
RICHARD M. ABERNATHY
City Attorneys



DATE(S) OF PUBLICATION: February 24 & March 03, 2006, Frisco Enterprise.