

ORDINANCE NO. 2008-O-057

AMENDING ARTICLE IX [SWIMMING POOLS] OF CHAPTER 15 OF THE CODE OF ORDINANCES IN THE FOLLOWING RESPECTS:

SECTION 15-135 [DEFINITIONS] IN ORDER TO ESTABLISH AND DEFINE THE THREE TERMS: BUILDING OFFICIAL, PRIVATE SWIMMING POOL, & SPA;

SECTION 15-136 [SWIMMING POOL PERMIT REQUIRED] IN ORDER TO REQUIRE BUILDING PERMIT FOR THE CONSTRUCTION OF A PRIVATE SWIMMING POOL OR SPA;

SECTION 15-137 [APPLICATION FOR A SWIMMING POOL PERMIT], IN ORDER TO SPECIFY THE REQUIREMENTS FOR A PRIVATE SWIMMING POOL OR SPA CONSTRUCTION PERMIT;

SECTION 15-138 [AUTHORITY TO INSPECT] IN ORDER TO AUTHORIZE THE BUILDING OFFICIAL AND DESIGNEES TO INSPECT PRIVATE SWIMMING POOLS OR SPAS;

SECTION 15-139 [ISSUANCE FEES] IN ORDER TO ESTABLISH ISSUANCE FEE FOR A PRIVATE SWIMMING POOL OR SPA;

SECTION 15-140 [DURATION OF PERMIT] IN ORDER TO ESTABLISH THE DURATION OF A PERMIT FOR PUBLIC, SEMI-PUBLIC OR PRIVATE SWIMMING POOL OR SPA;

SECTION 15-141 [PERMIT RENEWAL] IN ORDER TO AMEND CAPTION;

SECTION 15-142 [PERMIT REVOCATION] IN ORDER TO AMEND CAPTION

SECTION 15-143 UNCHANGED; AND

ADDING NEW SECTION 15-144 [PRIVATE POOL OR SPA BARRIER REQUIREMENTS], IN ORDER TO SPECIFY STANDARDS FOR SAFETY BARRIERS FOR PRIVATE SWIMMING POOLS AND SPAS; AND

RENUMBERING SECTION 15-144, 145 AND 146, TO 15-145, 146, & 147 AND AS RENUMBERED:

SECTION 145 [PENALTY FOR VIOLATION] IN ORDER TO PROVIDE FOR FINES FROM \$500.00 TO \$2,000.00 FOR VIOLATION OF THESE NEW REGULATIONS RELATING TO PRIVATE SWIMMING POOLS AND SPAS;

SECTION 15-146 [INJUNCTIVE RELIEF] IN ORDER TO PROVIDE THAT BUILDING OFFICIAL MAY SEEK INJUNCTIVE RELIEF;

SECTION 15-147 [SEVERABILITY] UNCHANGED; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, City of Laredo Code of Ordinances, Article IX, Section 15-135, Definitions, does not define the terms Building Official, spa, and private swimming pool.

WHEREAS, City of Laredo Code of Ordinances, Article IX, Section 15-136, Swimming Pool Permit Required, does not specify the requirement of a building permit for a private swimming pool or spa. Nor does it stipulate that only a registered State license master electrician contractor, may obtain electric permits for private swimming pool or spa construction.

WHEREAS, City of Laredo Code of Ordinances, Article IX, Section 15-137; Application for a Swimming Pool Permit; does not distinguish between a public, semi-public, or private swimming pool or spa.

WHEREAS, Article IX, Section 15-138, Authority of [to] Inspect; does not grant the Building Official or his/her authorized representative(s) the authority to conduct inspections of private swimming pools or spas.

WHEREAS, City of Laredo Code of Ordinances, Article IX, Section 15-139, Issuance, Fees for Swimming Pool, does not specify the required fees for a private swimming pool or spa permit.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

SECTION 1: Sections 15-135 to 15-147, inclusive, of ARTICLE IX [Swimming Pools] of the Code of Ordinances is amended to read as follows:

Sec. 15-135. Definitions

As used in this article, the following words shall have the meaning ascribed to them:

Health director shall mean the person designated as being director of the Health Department of the city or authorized representative(s), who are empowered to enforce the provisions of this ordinance.

Building Official shall mean the person designated as being official of the Building Department of the city or authorized representative(s), who are empowered to enforce the provisions of this ordinance.

Private swimming pool shall mean any swimming pool located at a private residence or private club or similar facility, such as a condominium regime, used and intended to be used, not by the public, but solely by the owner or occupant of such premises or the family of such owner or occupant, or membership or guests of such owner or occupant.

Public swimming pool shall mean any swimming pool other than a private residential swimming pool contained or located on a one-family dwelling.

Semi-public swimming pool shall mean:

- (1) Any privately owned swimming pool which is open to the general public for a fee; or
- (2) Any swimming or wading pool serving a private club, motel, hotel, apartment building, school, child care facility, institution, or other similar activity or structure, the use of which is limited to members or residents and their guest.

Private, public, or semi-public swimming pool or spa shall mean any structure or excavation either indoors or outdoors, used or suitable to be used for bathing or swimming purposes, together with buildings, equipment and appurtenances used in connection therewith, which is privately owned and not opened to the general public.

Spa shall mean a tub for relaxation or invigoration, usually including a device for raising whirlpools in the water.

Swimming pool operator shall mean an owner, manager, operator, or other attendant in charge of the swimming pool.

Sec. 15-136. Swimming Pool Permit Required

- (a) Effective October 1, 2002, all public and semipublic swimming pools must obtain a swimming pool permit issued by the health director or his authorized representative(s).
- (b) No person shall operate a public or semi-public swimming pool without a valid swimming pool permit. Each and every swimming pool as defined will be considered a separate and individual entity requiring a swimming pool permit.
- (c) It shall be unlawful for any person to establish, maintain, or operate a public or semi-public swimming pool within the city limits without a swimming pool permit, therefore or to continue to maintain, or operate a swimming pool for which a swimming pool permit has been suspended or revoked by the health director.
- (d) Effective 5-19-2007, all private swimming pools and spas must obtain a building permit issued by the City of Laredo Building Official or his authorized representative(s).

(e) Electrical permits for a private swimming pool or spa shall only be issued to a master electrical contractor licensed with the State of Texas.

Sec. 15-137. Application for a Swimming Pool or Spa Permit

a) All public or semi-public swimming pool operator(s) desiring a swimming pool permit to maintain or operate public or a semi-public swimming pool within the city limits shall make a written application to the health director or designee stating the name and residence of the applicant if an individual, or all members of the firm if an association or partnership, or the name and residence of the applicant and its officers, if a corporation, and the location of the premises where such swimming pool is located. The applicant [application] shall be made on forms prescribed by the health director. Each swimming pool will be required an application.

b) All constructions for a private pool or spa shall make a written application to the City of Laredo Building Official or designee which at a minimum shall include all of the following information:

a) Two (2) complete drawings of swimming pool or spa construction plans.

b) Drawings must be drawn to scale, (1"=20'-0") dimensioned and of sufficient clarity.

c) Drawings must be submitted with a completed swimming pool/spa permit application form.

d) A site plan which shall include all dimensions, including location of pool in reference to the property line and all building locations and fence barrier. All easements must be shown on site plan.

e) Section through pool structure must include all depth dimensions.

f) Equipment drawings' diagrams must include dimension in reference to property line.

g) All decking is required to be shown on the swimming pool or spa plans. Decking is prohibited in utility easements.

h) Manufacturer's brochure of details of swimming pool or spa is required for above ground pools or spas.

i) Diving pools require:

k) Completed diving board (residential) checklist.

Sec. 15-138. Authority to Inspect

a) The health director or his representative(s) acting under his authority or the authority of the city is, for the purpose of protecting the public health and enforcing this article, hereby authorized and directed at any or all reasonable times to make inspections of public and semipublic swimming pools to determine compliance.

b) The Building Official or his representative(s) acting under his authority or the authority of the city is, for the purpose of protecting the safety, health, and enforcing this article, hereby authorized and directed at any or all reasonable times during construction to make inspections of private swimming pools or spas to determine compliance.

c) Inspections of private pools and spas during construction shall involve the examination of swimming pool/spa equipment (filter, pumps, motors, etc.), the swimming pool/spa body, decking, coping, electrical, add-ons, (such as heaters, diving boards, waterfalls, etc.) as well as safety features such as swimming pool/spa fences, child safety gates, alarms, and doors. It is the responsibility of the swimming pool/spa contractor for requesting and completing all required inspection(s).

Sec. 15-139. [Issuance] Permit Fees for Public, Semi-Public, and Private Swimming Pool/Spa [Permit]

a) Upon proper application, as provided in this article, satisfactory inspection of the public or semi-public swimming pool(s) and upon the payment of one hundred dollars (\$100.00), the health director or authorized representative(s) shall issue or cause to be issued a swimming pool permit in accordance with such application for each swimming pool on the premises. Duplicate copies of swimming pool permits shall be issued at a fee of ten dollars (\$10.00) per permit.

b) Permit fees for a private swimming pool or spa shall be based on the valuation of the construction. If the property is non-compliant and a re-inspection fee is required, there shall be a fee of fifty dollars (\$50.00) per inspection(s).

Sec. 15-140. [Terms] Duration of Private, Public or Semi-Public Swimming Pool Permit

(a) Public or semi-public swimming pool permits shall be issued for a period not to exceed one year, with all swimming pool permits to expire September 30 of each year. A permit for public or semi-public swimming pool or for a spa shall expire one year from date of issuance. When a permit is issued, construction must start within six (6) months of date of issuance and such construction must be completed within one year after date of issuance; otherwise the permit becomes void and applicant must reapply for a new permit in order to construct or complete construction of the pool or spa.

(b) Operators of public and semi-public swimming pools shall meet minimum requirements for operation of a swimming pool as follows:

(1) A minimum free residual chlorine of two (2.0) parts for each one million (1,000,000) units of water in a spa and a minimum of free residual chlorine of one (1.0) part for each million (1,000,000) units of water in other swimming pools, or any other method of disinfectant approved by the Texas Department of Health, must be maintained in a public or semipublic swimming pool.

(2) Water in a public and semi-public swimming pool may not show an acid reaction to a standard pH test.

(3) The surface of the public and semi-public swimming pools water shall be kept free scum and forcing matter. The bottom and sides of the swimming pool shall be maintained free of sediment, dirt, slime and algae.

(4) Areas surrounding *public or semi-public* swimming pools, including bathhouses, dressing rooms, toilets, showers stalls and lounging areas, shall at all times be kept clean, well drained, and in a state of proper repair.

(5) Swimming pools that are not in use shall be closed to restrict their use. Signs advising all that said swimming pool is closed shall be posted while the swimming pool is closed.

(6) Where no lifeguard service is provided, a warning sign shall be placed in plain view and shall state "WARNING--NO LIFEGUARD ON DUTY" with clearly legible letter at least four (4) inches high. In addition, the sign shall also state, "NO CHILDREN ALLOWED WITHOUT AN ADULT PRESENT".

Sec. 15-141. Permit Renewal by Annual Application for Public and Semi-Public Swimming Pool or Spa

Public or semi-public swimming pool operator(s) must renew swimming pool permit(s) by making an annual application as described in this article.

Sec. 15-142. Revocation, Denial, or Suspension of a Public or Semi-Public Swimming Pool /Spa Permit.

(a) The health director may refuse to issue or renew a swimming pool permit or may suspend or revoke a swimming pool permit if the applicant or holder;

(1) Refuses to permit entry into the swimming pool by the health director or his authorized representative(s) or otherwise willfully obstructs the inspection or sampling of the swimming pool; or

(2) The operation of said swimming pool is in an unhealthy and sanitary manner in accordance with regulations established by the health director.

(b) At time of inspection of a swimming pool, the health director shall notify the permitted swimming pool operator(s), in writing, of the reason(s) for which the swimming pool permit is being suspended, and the date of such suspension. The swimming pool permit shall then be revoked unless within ten (10) days following notice of suspension, the swimming pool operator files a written request for a hearing with the health director. If no request for hearing is filed within the specified period, suspension and revocation or swimming pool permit shall become final.

(c) A swimming pool whose swimming pool permit has been suspended or revoked shall not have it reinstated or granted a new swimming pool permit until the swimming pool operator rectifies all reason(s) for said suspension or revocation.

Sec. 15-143. Unsanitary Swimming Pools Declared a Public Nuisance

Failure of swimming pool operator(s) responsible therefore to maintain any swimming pool or wading pool, including private residential swimming pools, in a safe and sanitary condition is hereby prohibited and declared to be a public nuisance within the city.

Sec. 15-144. Private Pool/Spa Barrier Requirements

1. The top of the barrier shall be at least 48 inches (1219mm) above grade measured on the side of the barrier, which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51mm) measured on the side of the barrier, which faces away from the swimming pool. Where the top structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4-inches (102mm).

2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102mm) sphere.

3. Solid barriers which do not have openings, such as masonry or stonewall, shall not contain indentation or protrusions except for normal construction tolerance and tooled masonry joints.

4. When the barrier composed of horizontal and vertical members and the distance between the tops of the horizontal member is less than 45 inches (1143mm), the horizontal member shall be located on the swimming pool side of the fence, or shall be so constructed as to not provide a climbable surface. Spacing between vertical members shall not exceed 1.75 inches (44mm) in width. Where there are decorative cutouts within vertical members, spacing within cutouts shall not exceed 1.75 inches (44mm) in width.

5. Where the barrier is composed of horizontal and vertical members and the distance between the top of the horizontal members is 45 inches (1143 mm) or more, spacing within the cutouts shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44mm) in width.

6. Maximum mesh size for chain link fences shall be a 1.25-inch (32 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).

7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more 1.75 inches (44 mm).

8. Access gates shall comply with the requirements of Section AG105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

- a) The release mechanism shall be located on the pool side of the gate at least 6 inches (152 mm) below the top of the gate, and
- b) The gate and barrier shall have not opening greater than 0.5 inches (12.7 mm) within 18 inches (457 mm) of the release mechanism.

9. Where a wall of a dwelling serves a part of the barrier one of the following conditions shall be met:

- a) The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or
- b) All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being

heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening, such deactivation switch to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or

c) Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.

10. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, then:

a) The ladder or steps shall be capable of being secured, locked or removed to prevent access, or

b) The ladder or steps shall be surrounded by a barrier which meets the requirements of Section AG105.2, Items 1 and 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102mm) sphere.

11. Deleted

12. Swimming pool/spa barrier information shall be provided on drawings; refer to glazing requirements of Chapter 3, Section R308 of 2006 International Residential Codebook (IRC) and Ordinances. (Impact resistance glazing is less than sixty (60) inches above the spa/poolside of the glazing.

13. Where there is an existing fence, it is the swimming pool/spa contractor's responsibility to upgrade the swimming pool/spa barrier requirements.

15. Private, public, semi-public, and spas shall comply with the Texas Department of Health Standards for Public Swimming Pools and Spas (Texas Administrative Code, Title 25) for copies of the Standard; contact the State of Texas at 1-800-226-7199 or at <http://www.sos.state.tx.us/tac>.

17. Manufacturer's specifications shall be required for diving equipment, including swimming pool type and maximum height above the water.

18. All swimming pools and spas shall comply with the 2006 International Energy Conservation Code, Section 504.3-504.3.3.

19. All swimming pool / spa contractors must be registered with the City of Laredo to acquire permits. To register the following requirements must be met: All contractors must present proof of having five years experience in the construction of swimming pools must present proof of having passed swimming pool contractor examination; present proof of being certified pool operators within one year of the adoption of the ordinance must present proof of liability insurance of no less than \$1,000,000 and must be current with all city taxes.; Annual registration fee will be \$50.00. Only registered pool contractors will be eligible to get permits.

Sec. 15-144. 15-145. Penalty for violation

a) Any person who violates a provision of this article or any person who is the holder of a food service operator permit who does not comply with the requirements of this article shall, upon conviction by the municipal court of the city, be subject to a fine no less that five hundred dollars (\$500.00) or not to exceed two thousand dollars (\$2,000.00) for each offense, and each day of violation of said article shall constitute a separate offense.

b) Any person(s) who constructs a private swimming pool/spa who violates a provision of this article or any person who is the holder of a swimming pool/spa operator permit who does not comply with the requirements of this article shall, upon conviction by the municipal court of the city, be subject to a fine no

less than five hundred dollars (\$500.00) or not to exceed two thousand dollars (\$2,000.00) for each offense, and each day of violation of said article shall constitute a separate offense.

Sec. 15-145. 15-146. Injunctive relief

a) In the addition to and cumulative of all other penalties, the health director shall have the right to seek injunctive relief, for any and/or all violations of this article.

b) In the addition to and cumulative of all other penalties, the Building Official or his/her authorized representative(s) shall have the right to seek injunctive relief, for any and/or all violations of this article.

Sec. 15-147. Severability

If any provision, section, sentence, clause or phrase of this article, or the application of same, to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portion of this article, or its application to other persons or sets of circumstances, shall not be affected thereby, and it being the intent of the city council of the city in adopting and approving this article, that no portion hereof or provision or regulation contained herein, shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion of this article

SECTION 2: This ordinance shall be published in the manner provided by Section 2.09 (D) of the Charter of the City of Laredo.

SECTION 3: This ordinance shall become effective as and from the date of publication specified in Section 2.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS THE 7th

DAY OF APRIL, 2008.

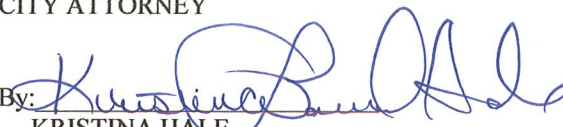


RAUL G. SALINAS
MAYOR

ATTEST:


GUSTAVO GUEVARA, JR.
CITY SECRETARY

APPROVED AS TO FORM:
RAUL CASSO
CITY ATTORNEY

By: 

KRISTINA HALE
ASSISTANT CITY ATTORNEY

COUNCIL COMMUNICATION

<p>DATE: 4-7-2008</p>	<p>SUBJECT: FINAL READING OF ORDINANCE 2008-O-057</p> <p>AMENDING ARTICLE IX [SWIMMING POOLS] OF CHAPTER 15 OF THE CODE OF ORDINANCES IN THE FOLLOWING RESPECTS: SECTION 15-135 [DEFINITIONS] IN ORDER TO ESTABLISH AND DEFINE THE THREE TERMS: BUILDING OFFICIAL, PRIVATE SWIMMING POOL, & SPA; SECTION 15-136 [SWIMMING POOL PERMIT REQUIRED] IN ORDER TO REQUIRE BUILDING PERMIT FOR THE CONSTRUCTION OF A PRIVATE SWIMMING POOL OR SPA; SECTION 15-137 [APPLICATION FOR A SWIMMING POOL PERMIT], IN ORDER TO SPECIFY THE REQUIREMENTS FOR A PRIVATE SWIMMING POOL OR SPA CONSTRUCTION PERMIT; SECTION 15-138 [AUTHORITY TO INSPECT] IN ORDER TO AUTHORIZE THE BUILDING OFFICIAL AND DESIGNEES TO INSPECT PRIVATE SWIMMING POOLS OR SPAS; SECTION 15-139 [ISSUANCE FEES] IN ORDER TO ESTABLISH ISSUANCE FEE FOR A PRIVATE SWIMMING POOL OR SPA; SECTION 15-140 [DURATION OF PERMIT] IN ORDER TO ESTABLISH THE DURATION OF A PERMIT FOR PUBLIC, SEMI-PUBLIC OR PRIVATE SWIMMING POOL OR SPA; SECTION 15-141 [PERMIT RENEWAL] IN ORDER TO AMEND CAPTION; SECTION 15-142 [PERMIT REVOCATION] IN ORDER TO AMEND CAPTION SECTION 15-143 UNCHANGED; AND ADDING NEW SECTION 15-144 [PRIVATE POOL OR SPA BARRIER REQUIREMENTS], IN ORDER TO SPECIFY STANDARDS FOR SAFETY BARRIERS FOR PRIVATE SWIMMING POOLS AND SPAS; AND CONTRACTORS REQUIREMENTS AND RENUMBERING SECTION 15-144, 145 AND 146, TO 15-145, 146, & 147 AND AS RENUMBERED: SECTION 145 [PENALTY FOR VIOLATION] IN ORDER TO PROVIDE FOR FINES FROM \$500.00 TO \$2,000.00 FOR VIOLATION OF THESE NEW REGULATIONS RELATING TO PRIVATE SWIMMING POOLS AND SPAS; SECTION 15-146 [INJUNCTIVE RELIEF] IN ORDER TO PROVIDE THAT BUILDING OFFICIAL MAY SEEK INJUNCTIVE RELIEF; SECTION 15-147 [SEVERABILITY] UNCHANGED; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE. AS AMENDED</p>
<p>INITIATED BY: Jesus M. Olivares Assistant City Manager</p>	<p>STAFF SOURCE: Erasmo A. Villarreal Director of Building Development Services</p>
<p>PREVIOUS ACTION: Ordinance was introduced and City Council asked for amendment to include certified contractor requirements.</p>	
<p>BACKGROUND: This proposed ordinance amends Article IX of the Code of Ordinances which deals with the municipal regulation of public and semi-public swimming pools, in order to bring within its regulatory scope private swimming pools and spas located within the city limits. This ordinance therefore establishes regulations and procedures governing the safety of the public and the issuance of building permits for private swimming pools and spas. Section 15-144 is existing in the 2006 International Residential Codebook, Appendix G, Swimming Pools, Spas and Hot Tubs. We are Amending Section 15-144 to delete # 11 as different from when Ordinance was tabled. And Added #19 Swimming Pool / Spa Contractors requirements for registration added in #19 requirement for liability insurance, swimming pool contractor examination requirements and that all city taxes be current.</p>	
<p>FINANCIAL: Fees will result in minor increase in revenue.</p>	
<p>RECOMMENDATION: N/A</p>	<p>STAFF RECOMMENDATION: Approval of this Ordinance.</p>