ORDINANCE NO. 3670

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING TITLE IX, HEALTH, SAFETY AND PROPERTY MAINTENANCE BY ESTABLISHING A NEW CHAPTER 94 TO BE ENTITLED "POOL, SPA AND INTERACTIVE WATER FEATURE AND FOUNTAIN REGULATIONS"; ESTABLISHING THE PURPOSE AND SCOPE; ESTABLISHING REQUIREMENTS GOVERNING THE OPERATIONS AND MAINTENANCE OF PUBLIC AND SEMI-PUBLIC POOLS, SPAS AND INTERACTIVE WATER FEATURES AND FOUNTAINS; AMENDING TITLE III, CHAPTER 31, THE COMPREHENSIVE FEE SCHEDULE OF THE CODE OF ORDINANCES OF THE CITY REGARDING FEES RELATED TO POOLS, SPAS AND INTERACTIVE WATER FEATURES AND FOUNTAINS; PROVIDING FOR A PENALTY UP TO $2000 PER DAY; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND, PROVIDING FOR AN EFFECTIVE DATE ON AND AFTER ITS ADOPTION AND PUBLICATION.

WHEREAS, the City of Carrollton, Texas (the "City") is a Home Rule municipality possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

WHEREAS, Section 54.004 of the Texas Local Government Code provides that a home rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants; and

WHEREAS, the City Council desires to enact an ordinance which regulates the operations and maintenance of public and semi-public pools, spas and interactive water features and fountains and authorizes code enforcement officers and designated inspectors to inspect, to require compliance with this Ordinance and to issue citations to provide for the enforcement of this Ordinance; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, health and safety of the City to adopt regulations relating to public and semi-public pools, spas and interactive water features and fountains in order to prevent disease, to reduce the risk of injury and to provide for a safe recreational experience by the public;

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

SECTION 1

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2

The Code of Ordinances of the City of Carrollton Title IX, Health, Safety and Property Maintenance is hereby amended to add Chapter 94, "Pool, Spa, and Interactive Water Feature and Fountain Regulations" to read as follows:

"CHAPTER 94. – POOL, SPA, AND INTERACTIVE WATER FEATURE AND FOUNTAIN REGULATIONS

ARTICLE I. IN GENERAL.

Sec. 94.01. – Purpose and Scope.

(A) This chapter is known as the City of Carrollton Pool, Spa, and Interactive Water Feature and Fountain Regulations.

(B) It is the purpose of this chapter to provide a clean, safe and healthful environment for the public through the regulation of the operations and maintenance of all public and semi-public pools, spas and interactive water features and fountains within the city, including all facilities incident thereto.

(C) This chapter establishes the permitting standards and process for all public and semi-public pools, spas and interactive water features and fountains in the city regardless of date constructed; the operations and maintenance minimum requirements; and penalties and remedies to achieve the public health and safety purpose of this chapter.

(D) All public and semi-public pools, spas and interactive water features and fountains shall comply with the Texas Department of State Health Services Standards set forth in Texas Administrative Code, 25 TAC, Chapter 265, Subchapter L, Standards for Swimming Pools and Spas and Subchapter M Public Interactive Water Features and Fountains, as amended.

(E) The City of Carrollton establishes the following standards to further protect public health and to prevent disease and injury; however, nothing in this chapter shall be construed to waive the City's governmental immunity from suit or from liability.

Sec. 94.02 - Administration.

The City Manager or his designee shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon the City Manager or his designee, may be delegated by him to other City personnel or authorized representatives.

Sec. 94.03 - Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Approved. Acceptable to the City based on a determination as to conformance with appropriate standards and/or good public health practices.

Bromine. A chemical element (Br_2) that exists as a liquid in its elemental form or as part of a chemical compound that is a biocide agent used to disinfect pool or spa water.

Chlorine. A chemical element (Cl_2) that exists as a gas in its elemental form or as a part of chemical compound that is an oxidant. Chlorine is a biocide agent used to disinfect pool or spa water.

Cryptosporidium. A microscopic parasite that can cause diarrhea. Water is the most common method of transmission and *Cryptosporidium* is one of the most frequent causes of waterborne illness among humans in the United States.

Cyanuric acid. A chemical that helps reduce the loss of chlorine in water due to the ultraviolet rays of the sun.

DCO. Designated City Official. The City Manager. The term may include the City Manager's designee or delegated staff or duly authorized representative of the City Manager.

Deck. The walking surface at least six feet around the swimming pool that is intended to be used by the bathers for sitting, standing or walking.

DPD. A chemical testing reagent (N,N-Diethyl-P-Phenylenediamine) used to measure the levels of free chlorine or bromine in water by yielding a series of colors ranging from light pink to dark red.

DPD Method. A method of measuring free available chlorine using DPD.

Free available chlorine or free available chlorine residual. The amount of measurable chlorine remaining in water available to inactivate microorganisms and that has not reacted with ammonia, nitrogenous material and other material in the water.

GFCI Wet Niche Test. Ground fault circuit interrupters (GFCI) are designed to sense fluctuation in power flow at an electrical outlet and automatically cut the power to prevent electrical shock. Testing required for pools is the wet niche test. To test: Plug something that uses power into the GFI receptacle and push the test button. The power should go off when the test button is pushed. The light on a wet niche fixture in a swimming pool should go out when the test button is pushed. When the reset button is pushed, power should be restored. If the test button does not interrupt the power, the unit is defective and needs to be replaced.

Interactive Water Features and Fountains (IWFFs). Any indoor or outdoor structure maintained for public recreation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons in various arrays, but has minimal standing water or does not pond water. Water from IWFFs is collected by gravity below grade in a collector tank or sump.

(1) *Public IWFF.* Any interactive water feature or fountain, other than a semi-public IWFF or a private residential IWFF, operated by any person whether that person is an owner, agent, lessee, site operator, licensee or concessionaire and intended to be used by a number of persons for recreational purposes regardless of whether a fee is charged for such use. Access is not restricted to exclusive use by person(s) of a temporary or permanent type of housing facility and their invited guests.

(2) *Semi-public IWFF.* Any interactive water feature or fountain intended to be used primarily by the occupants and their invited guests of any type of a permanent residence facility, e.g., homeowners association, apartment house, condominium residential club, country club, and housing complex, or of a temporary residence facility, e.g., hotel, motel, and camp. An IWFF at a school, college, university, hospital, health club, or other similar institution is deemed to be a semi-public IWFF, provided that the IWFF is used primarily by persons directly associated with that school, college, university, hospital, health club, or other similar institution, and/or as a part of the scheduled activities of that school, college university, hospital, or similar institution.

(3) *Private residential IWFF.* Any interactive water feature or fountain located on private property under the control of the owner or lessee, for recreational purposes by the members of the owner's or lessee's family and/or their invited guests. It is the express intention of this chapter that a private residential IWFF shall not be regulated herein.

NSF/ANSI-50. A standard established by the National Sanitation Foundation International/American National Standard Institute that applies to chemicals, materials, systems and other products used in recreational facilities to ensure highest product acceptance and compliance in the industry.

Ozone (O_3). A gas composed of oxygen that is generated on site and used to oxidize organic matter in water.

pH. A value expressing the relative acidic or basic tendencies of a substance, such as water, as indicated by the hydrogen ion concentration. The pH is expressed as a number on the scale of zero to 14, less than one being most acidic, 1 to 6.9 being acidic, 7 being neutral, 7.1 to 14 being basic, and 14 being most basic.

Parts per million (ppm). A unit of measurement in chemical testing that indicates the parts by weight in relation to one million parts by weight of water. For the purposes of pool, spa and IWFF water chemistry, ppm is considered to be essentially identical to the term milligrams per liter (mg/L).

Pool. Any man-made permanently installed or non-portable structure, basin, chamber, or tank containing an artificial body of water that is used for swimming, diving, aquatic sports, or other aquatic activity. The pool may be either publicly or privately owned. The term does not include a spa or a decorative fountain that is not used as a pool.

(1) *Public pool.* Any pool, other than a semi-public pool or a private residential pool, operated by any person whether that person is an owner, agent, lessee, site operator, licensee, or concessionaire, and intended to be used collectively by a number of persons for swimming, diving, and/or recreational bathing regardless of whether a fee is charged for such use. Access is not restricted to exclusive use by person(s) of a temporary or permanent type of housing facility and their invited guests. Pools used for accredited aquatic events are included in this definition.

(2) *Semi-public pool.* Any pool intended to be used primarily by the occupants and their invited guests of any type of a permanent residence facility, e.g., homeowners association, apartment house, condominium residential club, country club, and housing complex, or of a temporary residence facility, e.g., hotel, motel, and camp. A pool at a school, college, university, hospital, health club or other similar institution is deemed to be a semi-public pool, provided that the pool is used primarily by persons directly associated with that school, college, university, hospital, health club, or other similar institution, and/or as a part of the scheduled activities of that school, college university, hospital, or similar institution, and, provided that it is not used for any accredited aquatic event.

(3) *Private residential pool.* Any pool located on private property under the control of the owner or lessee, the use of which is limited to swimming, diving, and/or recreational bathing by the members of the owner's or lessee's family and/or their invited guests. It is the express intention of this chapter that private residential swimming pools shall not be regulated herein.

Person. Any individual, firm, partnership, association, corporation, company, governmental agency, club, or organization of any kind.

Potable water. Water that meets all applicable standards for an approved drinking water source of the Texas Commission on Environmental Quality (TCEQ), 30 Texas Administrative Code (TAC), Chapter 290, Public Drinking Water, Subchapter D, Rules and Regulations for Public Water Systems, as amended, and 30 TAC Chapter 290, Public Drinking Water, Subchapter F, Drinking Water Standards Governing Drinking Water Quality And Reporting Requirements For Public Water Systems, as amended, or the equivalent.

Site Operator. An owner, business manager, complex manager, association manager, rental agent, or other individual who is in charge of the day to day operation or maintenance of the property. A site operator is to be readily available during hours of operation and is responsible to ensure that the pool, spa, IWFF, and the associated facilities comply with state and local design, construction, operation, and maintenance standards.

Spa. A constructed permanent or portable structure two (2) feet or more in depth with a surface area of two hundred fifty (250) square feet or less or a volume of three thousand two hundred fifty (3250) gallons or less and intended to be used for bathing or other recreational uses and is not drained and refilled after each use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles, or any combination thereof. A spa, as is defined in this chapter, does not refer to a business establishment such as a day spa or a

health spa. Industry terminology for a spa includes, but is not limited to, "hydrotherapy pool," "whirlpool," "hot spa," "hot tub," and the like.

(1) *Public spa.* Any spa, other than a semi-public spa or a private residential spa, operated by any person whether that person is an owner, agent, lessee, site operator, licensee, or concessionaire, and intended to be used collectively by a number of persons for bathing or other recreational uses regardless of whether a fee is charged for such use. Access is not restricted to exclusive use by person(s) of a temporary or permanent type of housing facility and their invited guests.

(2) *Semi-public spa.* Any spa intended to be used primarily by the occupants and their invited guests of any type of a permanent residence facility, e.g., homeowners' association, apartment house, condominium residential club, country club, and housing complex, or of a temporary residence facility, e.g., hotel, motel, and camp. A spa at a school, college, university, hospital, health club, or other similar institution shall be deemed to be a semi-public spa, provided that the spa is used primarily by persons directly associated with that school, college, university, hospital, health club, or other similar institution, and/or as a part of the scheduled activities of that school, college university, hospital, or similar institution.

(3) *Private residential spa.* Any spa located on private property under the control of the owner or lessee, the use of which is limited to bathing or other recreational uses by the members of the owner's or lessee's family and/or their invited guests. It is the express intention of this chapter that private residential spas shall not be regulated herein.

Ultraviolet light (UV). Electromagnetic radiation that is invisible to the human eye with wavelengths on the border of x-rays, about 4 nanometers, to just beyond violet in the visible spectrum, about 380 nanometers.

Wading pool. Any structure, basin, chamber, or tank, located either indoors or outdoors, containing an artificial body of water intended to be used by children for recreational bathing and having a water depth not greater than two (2) feet at the deepest point.

ARTICLE II. CLEANLINESS, SANITATION AND WATER QUALITY STANDARDS.

Sec. 94.05. - General cleanliness and sanitation.

The room, enclosure or area of every pool, spa, and IWFF, including bath houses, toilet rooms and showers shall be kept in good repair and shall be maintained in a clean and sanitary condition at all times. Potable water and dispensed soap shall be available at showers; dispensed soap, paper towels and trash containers shall be available at lavatories.

Sec. 94.06. – Water quality standards.

(A) Water source.

(1) The water supply used to fill a pool, spa, or IWFF shall be from a potable water system. Water added to maintain the pool, spa or, IWFF water level, water used as vehicle for disinfectants or chemicals, and water used for pump priming shall be potable water.

(2) All portions of the water distribution system serving a pool, spa, or IWFF shall be protected against cross-connection, backflow and backsiphonage. No direct mechanical connection shall be made between the chlorinating equipment or system of piping and a sanitary sewer system, septic system, or other wastewater disposal system.

(B) Disinfection. All pools, spas, and IWFFs when in use, shall be continuously disinfected by a chemical and/or process registered with the U.S. Environmental Protection Agency for water disinfection. Use of any other disinfectant besides chlorine or bromine must be approved by the DCO.

(1) Disinfectant levels shall be in compliance with the state rules as provided in 25 TAC §265.204(a) and 25 TAC §265.306(c) as amended, and the following table. In the case where conflict exists between the tables referred to in this section, the more stringent requirements apply.

Disinfectant Levels	Minimum	Ideal	Maximum
Free chlorine – pools	1.0 ppm	2.0 – 3.0 ppm	8.0 ppm
Free chlorine – spas	2.0 ppm	3.0 – 5.0 ppm	8.0 ppm
Free chlorine – IWFFs	1.0 ppm	3.0 – 5.0 ppm	8.0 ppm
Bromine – pools	2.5 ppm	2.5 – 6.0 ppm	12.0 ppm
Bromine – spas	4.5 ppm	5.5 – 7.5 ppm	12.0 ppm
Bromine - IWFFs	2.5 ppm	5.5 – 7.5 ppm	12.0 ppm

(2) No one shall be permitted into the pool, spa or IWFF when the sanitizer residual is out of the range provided in Sections 94.06(B)(1).

(3) Testing and recording of pool and spa disinfectant levels shall be conducted as follows:

(a) Testing and recording for public pools and spas shall be conducted at least every two (2) hours to assure compliance with this chapter's disinfectant requirements, except as provided in (b). For IWFFs, semi-public pools and spas, testing and recording shall be conducted at least once a day.

(b) Testing and recording for public pools and spas with systems that automatically control disinfectant and pH, shall be at least two (2) times

per day. The first test must be done within sixty (60) minutes of beginning operation and the second towards the midpoint of operational time. In the event a pool, spa or IWFF with an automatic disinfectant and pH control system is open twenty-four (24) hours, then testing and recording shall be done every six (6) hours.

(c) Test samples must be representative of the pool water.

(4) The site operator of a pool and/or spa shall provide and maintain a test kit which is capable of detecting disinfectant residual by the DPD method without dilution.

(5) All IWFFs shall be equipped with a supplemental water treatment system that will protect the public against infection by the parasite Cryptosporidium. Supplemental water treatment systems for an IWFF include:

(a) UV light disinfection installed after filtration;

(b) Ozone;

(c) a NSF/ANSI-50 product, combination of products or processes to control Cryptosporidium;

(d) weekly hyper-chlorination following the recommendations of the Center for Disease Control;

(e) an equivalent product, process, or system approved by the DCO.

(6) Water from an IWFF shall not be combined or circulated with water of other IWFFs or pools unless all of the waters are treated with a supplemental water treatment system.

(7) The IWFF treatment tank shall be completely drained and cleaned at a frequency necessary to maintain water quality and sanitary conditions.

(C) Other water quality parameters.

(1) Requirements for pH:

(a) levels in pool, spa, and IWFF waters shall be kept between 7.0 and 7.8 pH units during hours of operation;

(b) shall be tested at the same time and frequency as the disinfectant level test; and,

(c) shall be tested using a pH test kit which shall be accurate to at least 0.2 pH units.

(2) Cyanuric acid requirements.

(a) Cyanuric acid shall not be used in indoor pools, spas, and IWFFs;

(b) If used in outdoor pools or spas, cyanuric acid ideally should be from 10.0 ppm – 40.0 ppm, but must not be greater than 100ppm; for IWFFs, cyanuric acid ideally should be 20 ppm, but must not be greater than 50ppm; and,

(c) Cyanuric acid tests shall be conducted at least once every seven (7) days.

(3) Water clarity.

(a) Every pool or spa shall have clarity sufficient for bottom and main drain or a six-inch diameter turbidity test disk placed at the deepest part of a pool or spa to be readily visible. Failure to meet this requirement shall constitute grounds for immediate closure of the pool or spa.

(b) The water clarity requirement is in effect any time any amount of water is in a pool or spa.

(c) Allowances for normal aeration of a spa in increments of no more than 15 minutes, will be permitted.

(4) Foreign matter.

(a) Every pool, spa or IWFF shall be free of scum and foreign matter including sediment, dirt, slime, algae, and all other foreign matter that might be conducive to the transmission of disease. Debris shall be removed daily.

(b) Any dirt, trash, refuse, animal waste, or debris on the surface of a zero depth IWFF shall be removed from the surface and the surfaces shall be flushed and sanitized with a United States Environmental Protection Agency approved disinfectant as often as is needed to prevent contamination of the water in the IWFF. The surfaces of zero depth IWFFs and the decks of all IWFFs shall be kept clean and free of pooled water to prevent the growth of algae and bacteria.

(5) Temperature for heated pools and spas.

(a) The water temperature in any heated public or semi-public pool or spa shall not exceed 104 degrees Fahrenheit.

(b) A break-resistant and working thermometer (plus or minus 1 degree Fahrenheit tolerance) that is designed for use in spas shall be available for spa users and staff to monitor spa temperature. The thermometer shall be capable of measuring temperature in the range of at least 90 degrees

Fahrenheit to 110 degrees Fahrenheit in increments of two (2) degrees Fahrenheit or less.

(c) Water temperature controls shall only be accessible to the site operator and not the spa user.

(d) The temperature shall be checked and recorded:

(i) before users are allowed into the heated pool/spa; and,

(ii) checked every two (2) hours while the pool/spa is available for use.

(6) During off-season or periods of non-use. Water clarity shall be maintained and algae growth shall be prevented in outdoor pools, spas or IWFFs not in use for an extended period of time. The facility shall not be allowed to give off objectionable odors, become a breeding site for insects, or create any other nuisance situation or safety hazard.

ARTICLE III. SAFETY PROCEDURES, SIGNAGE, EQUIPMENT AND RULES.

Sec. 94.10. - Manual application of chemicals.

Whenever it is necessary to add any harsh or irritating chemical in concentrated form, pool, spa, and IWFF users shall be excluded until the chemical is dissolved completely and is diffused thoroughly throughout the water.

Sec. 94.11. – Pool, spa, and IWFF site operators, safety facilities, and procedures.

(A) Certified pool, spa, and IWFF site operator.

(1) The operations and maintenance of pools, spas, and IWFFs shall be under the supervision and direction of a properly trained and certified site operator, who shall be registered with the City of Carrollton as the site operator.

(2) The site operator shall be responsible for the sanitation, safety, and proper maintenance of the pool, spa, and IWFF and for maintaining all physical and mechanical equipment and records.

(3) The site operator shall be readily available during all hours of operation of the pool, spa, or IWFF to maintain it in a safe and sanitary manner.

(4) If the site operator is not employed onsite during hours of operation, the owner shall post signs at all entrances to the facility stating the name and contact number of the certified site operator. The letters on the signs shall be at least two (2) inches high and in contrasting colors.

(5) Certification of the pool, spa, or IWFF site operator shall be either in the following courses or an equivalent course approved by the DCO:

(a) the National Recreation and Parks Association (NRPA) Certified Aquatic Facility Operator (A.F.O.);

(b) the National Swimming Pool Foundation (NSPF) Certified Pool-Spa Operator (C.P.O.); or

(c) the American Swimming Pool and Spa Association (ASPSA) Licensed Aquatic Facility Technician (L.A.F.T.).

(B) No pool shall be open for use unless a sufficient number of units of the following lifesaving equipment is on hand within twenty feet from pool and is readily accessible for use:

(1) A throwing rope that is 1/4-inch to 3/8-inch diameter, with a length at least two-thirds the maximum width of the pool with a United States Coast Guard approved ring buoy of an outside diameter of fifteen (15) to twenty-four (24) inches attached to the throwing rope; and,

(2) A light, strong, non-conducting, non-telescoping life pole or shepherd's crook type pole having blunted ends and a minimum length of twelve (12) feet.

(C) All life-saving equipment shall be placed or mounted in conspicuous places, distributed around the pool deck, at elevated lifeguard platforms or chairs, and at other readily accessible locations, and shall be kept in good repair and ready for use.

(D) Every pool and spa shall have in the immediate vicinity a working telephone or some other device approved by the DCO for summoning aid in emergencies.

(E) The following signs shall be posted at all pools and spas as specified below, and shall be clearly visible to the pool, spa or IWFF user:

(1) The warning words "NO DIVING" and the international no diving symbol shall be clearly marked on the pool deck with contrasting colors and letters at least four (4) inches high. The warning shall be placed at least every twenty-five (25) feet or fraction thereof, around the pool where the water depth is six (6) feet or less. At least two warnings including the "NO DIVING" and international no diving symbol, shall be provided at the extreme ends. The signs must be placed within twenty-four (24) inches of the water's edge and positioned to be read while standing on the deck facing the water.

(2) Whenever a semi-public pool is open for use and no lifeguard is on duty, a warning sign shall be placed in a conspicuous location and shall state "WARNING—NO LIFEGUARD ON DUTY" in easy-to-read, legible letters which are at least four (4) inches high. In addition, there shall be signs which are readily visible stating "CHILDREN UNDER AGE THIRTEEN SHOULD NOT USE SWIMMING POOL

WITHOUT AN ADULT IN ATTENDANCE" and "ADULTS SHOULD NOT SWIM ALONE" in easy-to-read, legible letters which are at least four (4) inches high.

(3) The allowed maximum user load for a pool or spa shall be posted in at least two (2) inch letters.

(4) A sign stating "In case of emergency, call 911" shall be posted in at least two (2) inch letters.

(5) A sign stating "DO NOT USE THE SPA, IF THE WATER TEMPERATURE IS ABOVE 104 DEGREES FAHRENHEIT (40 DEGREES CENTIGRADE)" shall be posted at a spa in at least two (2) inch letters.

(F) Depth markers. All public and semi-public pools shall provide and maintain depth markings in feet on both the deck and on the inner walls of the pool to at least four (4) inches in height of contrasting color to the background.

(1) In water depths of five (5) feet or less, depth markers shall be required at one-foot depth intervals, but not more than twenty-five (25) feet apart around the area of the pool.

(2) In water depths greater than five (5) feet, depth markers shall be set at intervals of every two (2) feet of depth and at the maximum depth point.

(3) Depth markers and any unit markers on decks shall be slip-resistant, placed within twenty-four (24) inches of the water's edge, and positioned to be read while standing on the deck facing the water.

(G) Float lines and floor markings.

(1) For public pools over five (5) feet deep:

(a) The transition point of a public pool from the shallow area to the deep area of the pool shall be visually set apart with a four (4) inch minimum width row of floor tile, a painted line, or similar means using a color contrasting with the bottom; and,

(b) A rope and float line shall be provided between one (1) foot and two (2) feet on the shallow side of the five (5) foot depth along and parallel to this depth from one side of the pool to the other side. The floats shall be spaced at not greater than seven (7) foot intervals. The floats shall be secured so they will not slide or bunch up. The stretched float line shall be of sufficient size and strength to offer a good handhold and to support loads normally imposed by users. The site operator shall promptly remedy a missing, broken, or defective rope or float.

(2) For semi-public pools over five (5) feet deep, the transition point of the pool from the shallow area to the deep area of the pool shall be visually separated by a four (4) inch minimum width row of floor tile, a painted line, or similar means using a color contrasting with the bottom.

Sec. 94.12. - General safety provisions.

(A) All chemicals, cleaning compounds, and similar materials shall be stored in the original container with clear labels, in a cool, dry and well-ventilated place, out of the reach of children, and in a locked room.

(B) No new gas chlorination shall be installed. Gas chlorination installed after September 1, 2004, as per state prohibition, shall be removed and replaced with non-gas chlorinators.

(C) Facilities with gas chlorination prior to September 1, 2004 shall observe the safety procedures stipulated by the Texas Department of State Health Services Standards set forth in Texas Administrative Code, 25 TAC, Chapter 265, Subchapter L, Standards for Swimming Pools and Spas.

(D) There shall be no smoking in any of the areas where any of the pool, spa, and IWFF chemicals may be stored and/or are being applied.

(E) While handling pool, spa and IWFF chemicals, all persons shall wear protective eye glasses or eye shields, and other protective clothing as may be deemed necessary by the chemical manufacturing company.

(F) Exposed piping at new and existing pools shall be labeled to adequately identify the piping function and direction of flow.

(G) At least one drinking fountain of potable water source shall be provided and available to users at a pool, spa or IWFF.

Sec. 94.13 - Requirements of pool, spa, or IWFF users.

(A) No person shall use a pool, spa, or IWFF if the person has a contagious disease; exhibits diarrhea and/or vomiting; has skin abrasions, an open wound, open sores, skin or eye disease, or nasal or ear discharge;

(B) No person shall engage in rough or inappropriate activity; bring animals (except service animals) into the pool, spa, or IWFF area; spit or blow the nose into pool; misuse lifesaving equipment; or, bring glass (except eyeglasses) into the area.

Sec. 94.14 – Requirements of pool, spa, or IWFF site operators.

The site operator of a public or semi-public pool, spa, or IWFF shall not:

(1) Knowingly permit the use of the facility by a person set out to be excluded under Sec. 94.13 of this chapter.

(2) Knowingly permit a condition to exist that endangers the life, health, or safety of a user or that violates a provision of this chapter.

(3) Knowingly allow dogs within a pool area or enclosure, except for service animals, without permission from the DCO.

(4) Fail to maintain a pool in accordance with the standards of health and safety required by this chapter.

Sec. 94.15 - Temporary closure of pool, spa, or IWFF.

All pools, spas, or IWFFs shall be temporarily closed for use whenever any of the following conditions occurs and shall not be reopened for use until the condition has been brought into compliance:

(1) The concentration of a residual disinfectant does not comply with the code provisions;

(2) The pH of the water does not comply with the code provisions;

(3) The clarity of the water does not comply with the code provisions;

(4) There is a malfunction or nonfunction of the recirculation system;

(5) The pool, spa, or IWFF fails a GFCI for wet niche fixture test; or,

(6) There is any other condition which may endanger the health, safety, or welfare of persons using the pool, spa, or IWFF.

Sec. 94.16 - Operating records.

(A) Proper operating, maintenance, and test records shall be kept for every swimming pool when in use, and shall be available for inspection by the DCO upon request. Records shall be kept onsite for a period of three years.

(B) Operating records shall include daily entries for at least the following items:

(1) Disinfectant residual readings, such as free available residual chlorine or equivalent as required in this chapter;

(2) pH readings as required in this chapter;

(3) Readings of other chemical tests;

(4) Clarity of the pool water at the deepest point;

(5) Incidents of any malfunctions or failures of equipment along with corrective action taken;

(6) Maintenance and servicing of equipment; and,

(7) General comments.

(C) Operating records shall include weekly entries for the following items:

(1) Amounts of chemicals used;

(2) Ground Fault Circuit Interrupters for pool, SPA and IWFF equipment;

(3) Condition of semi-public pool, spa or IWFF enclosure and gates; and,

(4) Condition of handrails; and,

(5) Condition of emergency telephone operation.

Sec. 94.17 - Posting of rules.

(A) Safety rules shall be posted conspicuously in the pool enclosure when the facility is open or in use. Warning and notification signs shall be posted at the entrance of all pools, spas, and IWFFs, or where the signs are clearly visible to users entering the area before contact with water occurs.

(B) Signs shall be securely mounted, clearly visible, and easily read with letters at least two (2) inches in height and in a contrasting color to the background. The following required signage may be combined into a single sign.

(C) The signage shall provide the following notifications and warnings in the following terms or equivalent:

(1) "Non-Service Animals Prohibited;"

(2) "Changing Diapers Within 6 Feet Of The Water Is Prohibited;"

(3) "Do Not Drink Water From The Water Feature;"

(4) "Use When Ill With A Contagious Disease Is Prohibited;" and,

(5) "Use When Ill With Diarrhea Or Vomiting Is Prohibited."

ARTICLE IV. HEALTH PERMIT REQUIREMENTS; APPLICATION; DENIAL; SUSPENSION.

Sec. 94.20 - Issuance of operating health permit.

(A) No person shall operate a pool, spa, or IWFF unless a valid health permit to operate such swimming pool has been obtained from the DCO. Such permit shall be valid for one year from the date of issue for each and every pool, spa or IWFF, unless otherwise revoked for cause as hereinafter prescribed.

(B) An application for a health permit to operate a public or semi-public pool, spa, or IWFF shall be made to the DCO annually. The applicant shall submit a completed pool/spa/IWFF health permit application and the appropriate fees as provided under Chapter 31, Comprehensive Fee Schedule, of the Carrollton Code of Ordinances along with the following documents:

(1) A notarized certification from the owner or site operator that the public or semi-public pool, spa or IWFF meets or exceeds the standards set forth in the Texas Health and Safety Code, § 341.064, "Swimming Pools and Bathhouses", and §341.0645, "Pool Safety" as currently enacted or as it may hereafter be amended; that the public or semi-public pool or spa meets or exceeds the standards set forth in the Texas Administrative Code, 25 TAC, Chapter 265, Subchapter L, "Standards for Swimming Pools and Spas" and that the public or semi-public IWFF meets or exceeds the standards set forth in the Texas Administrative Code, 25 TAC, Chapter 265, Subchapter M, "Public Interactive Water Features and Fountains", or as it may hereafter be amended; and, the requirements of this ordinance or as it may hereafter be amended.

(2) A notarized certification from the owner or site operator that fencing or other enclosures for the public or semi-public pool, spa, or IWFF meets or exceeds the requirements of the City of Carrollton Building Code as currently enacted, or as it may hereafter be amended, and the standards set forth in either 25 TAC, Section 265.200, "Pool Yard and Spa Yard Enclosures for Post-10-01-99 and Pre-10-01-99 Pools and Spas" or Health and Safety Code Chapter 757 "Pool Yard Enclosures."

(3) A notarized certification from a licensed electrician registered with the City of Carrollton confirming that the pool, spa, or IWFF passed the annual testing of GFCI for wet niche fixture.

(4) Registration of the pool/spa/IWFF site operator with a copy of the site operator's certification as defined in Section 94.11 of this chapter as evidence of knowledge, understanding and capability of operating the pool, spa or IWFF.

(C) Once the health permit is issued, a copy shall be prominently displayed at the entrance of the pool, spa, or IWFF along with a copy of the site operator's certification.

Sec. 94.21 - Grounds for health permit denial.

(A) The DCO may deny the issuance of a pool, spa, or IWFF health permit if the permit applicant has been convicted of one or more violations of this chapter or the Texas

Department of State Health Services Standards, as set forth in Texas Administrative Code, 25 TAC, Chapter 265, Subchapter L, Standards for Swimming Pools and Spas and Subchapter M, Public Interactive Water Features and Fountains, within the six (6) months preceding the date of the application; or if any of the permit conditions of this chapter are not met.

(B) An applicant whose health permit is denied will be notified by the DCO in writing. The DCO shall set out the grounds for the denial.

(C) An applicant whose health permit is denied may appeal and request a hearing within ten (10) days after service of the notice of denial. Such request shall be in writing, shall specify the reasons why the health permit should not be denied, and shall be filed with the DCO. A hearing shall be conducted by the DCO within fifteen (15) days from receipt of the appeal.

Sec. 94.22. - Grounds for suspension or revocation of health permit.

(A) After notice and hearing, the DCO may suspend the health permit for up to one hundred eighty (180) days if:

(1) The DCO determines by a preponderance the health permit holder or site operator has committed a violation of this chapter or the Texas Department of State Health Services Standards set forth in Texas Administrative Code, 25 TAC, Chapter 265, Subchapter L, Standards for Swimming Pools and Spas and Subchapter M, Public Interactive Water Features and Fountains during the term of the permit.

(2) The health permit holder or site operator fails to comply with an inspection report requirement.

(3) The health permit holder or site operator disobeys a closure order issued by the DCO pursuant to this chapter.

(4) The health permit holder or site operator makes a materially false statement on the health permit application.

(B) If the DCO determines that the operation or maintenance of any pool, spa, or IWFF is such as to constitute an imminent hazard to the health and safety of the public, the health permit shall be suspended immediately and the swimming pool, spa, or IWFF shall be closed for use and shall remain closed until the necessary remedial action has been completed.

(C) A health permit which has been suspended may be reissued upon presentation of evidence satisfactory to the DCO that the deficiencies and/or irregularities which caused the suspension have been corrected.

ARTICLE IV. ABANDONED, NEGLECTED, INOPERABLE, AND HAZARDOUS POOLS, SPAS, AND IWFFS.

Sec. 94.25 - Abandoned, neglected, inoperable, and hazardous public or semi-public pools, spas, and IWFFs.

The site operator of any public or semi-public pool, spa, or IWFF, permitted or unpermitted, shall not allow the facility to remain in any condition that creates a public health hazard or a nuisance to the general public. Any time a public or semi-public pool, spa, or IWFF contains any amount of water the site operator shall:

(1) Maintain water clarity so all parts of the pool or spa bottom can be easily seen.

(2) Maintain a proper fence or barrier surrounding the pool or spa that:

(a) Is at least four (4) feet tall;

(b) Does not have more than four (4) inches gap between vertical members;

(c) Does not have more than four (4) inches gap between the bottom of the fence or barrier and ground grade; and

(d) Does not have a general structure that makes the fence or barrier easily climbable or accessible by toddlers.

(3) Maintain all access doors and gates to be self-closing, self-latching, and opening outward away from the pool, spa, or IWFF yard. The gate latch must be at least three (3) inches below the top of the gate with no opening greater than one-half (0.5) inch in any direction within eighteen (18) inches from the latch (including the space between the gate and gate post). An exception to the self-latching requirement is allowed when the gate is actively and directly monitored at all times during hours of operation.

(4) Lock and keep locked all doors and gates if no permit has been issued or if the permit has been suspended.

ARTICLE V. AUTHORITY OF ENFORCEMENT.

Sec. 94.28

(A) As a condition to the approval of its health permit, the DCO may enter the premises of public and semi-public pools, spas, or IWFFs at all reasonable times to make an inspection, to enforce any of the provisions of this article, to collect water samples, or whenever the DCO has probable cause to believe that a violation of this chapter exists on such premises.

(B) The DCO shall first present appropriate credentials and demand entry if the premises are occupied. If the premises are unoccupied, the DCO shall first make a reasonable attempt to locate the site operator, health permit holder, or person in control of the premises and demand entry.

(C) If entry is denied or if the site operator, health permit holder, or person in control of the premises cannot be located, the DCO shall have every recourse provided by law to secure entry.

Sec. 94.29 - Inspection reports.

(A) After inspecting a public or semi-public pool, spa, or IWFF pursuant to this chapter, the DCO may prepare a written inspection report. Such report may specify the violations observed during the inspection and require the health permit holder or site operator to bring the facility into compliance with this chapter by a specified time.

(B) The DCO shall furnish a copy of the inspection report to the site operator or health permit holder.

(C) The inspection report shall state that failure to comply with the orders of the report may result in the issuance of criminal citations, the closure of the facility, the suspension or revocation of the pool, spa, or IWFF health permit, and the exercise of all other remedies allowed by law.

(D) A person commits an offense if the person owns, is the health permit holder, or is the site operator of the pool, spa, or IWFF and fails to comply with an order issued pursuant to this Section.

Sec. 94.30 – Closure Order

(A) The DCO may order a public or semi-public pool, spa, or IWFF closed if the DCO determines that:

(1) It is being operated without a valid pool, spa, or IWFF health permit;

(2) It is being operated without a trained and certified site operator;

(3) The continued operation of the pool, spa, or IWFF constitutes an imminent hazard to the health or safety of persons using the facility, or those in close proximity to the facility.

(B) After the DCO closes a public or semi-public pool, spa, or IWFF, the health permit holder, owner, or site operator shall immediately:

(1) Properly post and maintain easy-to-read and visible signs at all entrances to the pool, spa, or IWFF that state: "CLOSED UNTIL FURTHER NOTICE" in letters at least four (4) inches high; and,

(2) Lock and keep locked all doorways and gates that form a part of the pool, spa, or IWFF enclosure.

(C) Every permit holder, owner, or site operator shall make reasonable efforts to keep users out of the water until the pool, spa, or IWFF is re-opened. Reasonable exclusion may include locking gates, taping off the area, utilizing other appropriate barriers, or draining the facility.

(D) The permit holder or site operator of a pool, spa, or IWFF subject to a closure order commits an offense if he/she knowingly allows a person or persons to use the pool, spa, or IWFF.

(E) A person commits an offense if the person uses a pool, spa, or IWFF that has been ordered closed by the DCO and which is properly posted or locked as required by this section.

(F) If the health permit holder, owner, or site operator is absent, fails or refuses to comply with an order to close issued pursuant to this chapter, the DCO may post signs and secure the premises in accordance with this section.

(G) The DCO shall have the right to lock and/or chain entrances to public and semi-public pools, spas, and IWFFs if in the DCO's opinion the facility is dangerous to public health, the permit holder, owner, or site operator is not enforcing closure, or users are disregarding warnings.

(H) A person other than the DCO commits an offense if the person removes, defaces, alters, covers, or renders unreadable a closure sign posted by the DCO.

(I) A pool, spa, or IWFF closed by the DCO shall not resume operations until a reinspection by the DCO determines, in writing, that the closure order is revoked and the facility has been brought into compliance with this chapter.

(J) A permit holder or owner may appeal a closure order to the DCO within ten (10) days after the issuance of the order. The appeal shall be in writing, shall set forth the reasons why the closure order should be rescinded, and shall be filed with the DCO. The filing of an appeal does not stay the closure order.

Sec. 94.31. - Penalty.

It shall be unlawful for any person to violate any provision of this chapter, and any such violation shall be deemed to be a misdemeanor and, upon conviction of such violation, such person shall be punished by a penalty as set forth in section 10.99 for each offense. Each and every day any such violation continues shall be deemed to constitute a separate offense."

SECTION 3.

Subsection (D) (4), of Section 31.01, Establishment of Fees for City Services, of Chapter 31, Comprehensive Fee Schedule, of Title III, Administration, of the Carrollton Code of Ordinances is amended to read as follows:

2) Pool Code

Health permit fee for first pool at a location/facility:	$100.00 per year
Health permit fee for each additional pool at a location/facility:	$ 50.00 per year
Health permit fee for each spa at a location/facility:	$ 50.00 per year
Health permit fee for first IWFF at a location/facility:	$150.00 per year
Health permit fee for each additional IWFF at a location/facility	$100.00 per year

SECTION 4.

If any section, subsection, sentence, paragraph, clause, phrase, or provision in this Ordinance or application thereof to any person or circumstance, shall be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 5.

Except as herein amended, Chapter 94, Pool, Spa, and Interactive Water Feature and Fountain Regulations and Chapter 31, Comprehensive Fee Schedule, of the Carrollton Code of Ordinances, as amended, shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified, and affirmed.

SECTION 6.

This ordinance shall become and be effective on and after its adoption and publication.

DULY PASSED AND APPROVED by the City Council of the City of Carrollton, Texas, this 17th day of March, 2015.

CITY OF CARROLLTON, TEXAS

Matthew Marchant, Mayor

ATTEST:

Krystle Nelinson, City Secretary

CITY OF CARROLLTON, TEXAS

APPROVED AS TO FORM:

Meredith A. Ladd
City Attorney

APPROVED AS TO CONTENT:

Scott Hudson
Environmental Services Director