

ARTICLE XIII. - SWIMMING POOL AND SPA CODE

Sec. 8-861. - International Swimming Pool and Spa Code adopted; amendments.

The city adopts the 2015 International Swimming Pool and Spa Code as published by the International Code Council with the following amendments:

- (1) Subsection 101.1 is amended to read as follows:

101.1 Title. These regulations shall be known as the International Swimming Pool and Spa Code of the City of Fulshear, Texas, and may be cited as such, and will be referred to herein as "this code."

- (2) Subsection 102.7 is amended to read as follows:

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 11, as may be amended by the city, and such codes and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall be the minimum requirements.

102.7.1 Application of the international codes. Where the International Residential Code is referenced in this code, the provisions of the International Residential Code, as may be amended by the city, shall apply to related systems in detached one- and two-family dwellings and townhouses not more than three stories in height. Other related systems shall comply with the applicable International Code, as may be amended by the city, or referenced standard.

- (3) Section 103 is deleted and a new section 103 is added to read as follows:

Section 103 Building Official.

103.1 General. Whenever a reference in this code is made to the department of building safety, the code official, or the building official, such term shall mean the chief building official of the city or their designee or any other designated person as set by the city manager, to administer and enforce this code. Whenever an act in this code references the city, the building official or any city-authorized representative may perform such act on behalf of the city.

103.2 Liability. The building official, member of any board, or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

- (4) Subsection 104.2 is amended to read as follows:

104.2 Applications and permits. The city shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of pools, spas and related mechanical, electrical and plumbing systems, inspect the premises for which such permits have been issued, and enforce compliance with the provisions of this code.

- (5) Subsection 104.6 is amended to read as follows:

104.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a building, structure, or upon any premises any conditions or violations of this code which makes the building, structure, or premises unsafe, insanitary, dangerous, or hazardous, the building official shall attempt to gain entry to the building, structure, or premise by consent of the owner. If the owner does not consent to entry, the building official may seek an inspection warrant from the city's municipal court. Nothing herein shall limit the building official from gaining entry to a building, structure, or premise as allowed by law. Where the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no

owner, owner's authorized agent, occupant, or person having charge, care, or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

- (6) Subsection 104.7 is amended to read as follows:

104.7 Department records. The city shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of such public records.

- (7) Subsection 105.1 is amended to read as follows:

105.1 When required. Any owner, owner's authorized agent, or contractor who intends to construct, enlarge, alter, repair, move, or demolish a pool or spa or to erect, install, enlarge, alter, repair, remove, convert or replace any system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the city and obtain the required permit.

- (8) Subsection 105.2 is amended to read as follows:

105.2 Application for permit. Each application for a permit, with the required fee, shall be filed with the city on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or the owner's authorized agent. The permit application shall contain such other information required by the city.

- (9) Subsection 105.3 is amended to read as follows:

105.3 Construction documents. Construction documents, engineering calculations, diagrams and other such data shall be submitted in two or more sets with each application for a permit. The city shall require construction documents, computations and specifications to be prepared and designed by a registered design professional where required by state law. Where special conditions exist, the city is authorized to require additional construction documents to be prepared by a registered design professional. Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work conforms to the provisions of this code.

Exception: The city shall have the authority to waive the submission of construction documents, calculations or other data if the nature of the work applied for is such that reviewing of construction documents is not necessary to determine compliance with this code.

- (10) Subsection 105.4 is amended to read as follows:

105.4 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a permit has been issued; except that the city is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- (11) Subsection 105.5 is amended to read as follows:

105.5 Permit issuance. The application, construction documents and other data filed by an applicant for permit shall be reviewed by the city. If the city finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, and that the required fees have been paid, a permit shall be issued to the applicant.

105.5.1 Approved construction documents. When the city issues the permit where construction documents are required, the construction documents shall be endorsed in writing and stamped 'APPROVED.' Such approved construction documents shall not be changed, modified or altered without authorization from the city. Work shall be done in accordance with the approved construction documents. The city shall have the authority to issue a permit for the

construction of a part of a system before the construction documents for the entire system have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire system will be granted.

105.5.2 Validity. The issuance of a permit or approval of construction documents shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or any other ordinance of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of this code shall not be valid. The issuance of a permit based upon construction documents and other data shall not prevent the city from thereafter requiring the correction of errors in said construction documents and other data or from preventing building operations being carried on thereunder where in violation of this code or of other ordinances of this jurisdiction.

105.5.3 Expiration. Every permit issued by the city under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Before such work can be recommenced, a new permit shall be first obtained and the fee therefore shall be paid.

105.5.4 Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The city may extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause.

105.5.5 Suspension or revocation of permit. The city shall have the authority to suspend or revoke a permit or approval issued under the provisions of this code wherever the permit or approval is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

105.5.6 Retention of construction documents. One set of approved construction documents shall be retained by the city for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws. One set of approved construction documents shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

105.5.7 Posting of permit. The permit or a copy shall be kept on the site of the work until the completion of the project.

- (12) Subsection 105.6.2 is amended to read as follows:

105.6.2 Fee schedule. The fees for work shall be as indicated in the schedule as established by the applicable governing authority.

- (13) Subsection 106.6.3 is amended to read as follows:

105.6.3 Fee refunds. The city is authorized to establish a refund policy.

- (14) Subsection 106.2 is amended to read as follows:

106.2 Preliminary inspection. Before issuing a permit, the city is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

- (15) Subsection 106.4 is amended to read as follows:

106.4 Other inspections. In addition to the inspections specified above, the city shall be authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced.

- (16) Subsection 106.5 is amended to read as follows:

106.5 inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the city when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

- (17) Subsection 106.6 is amended to read as follows:

106.6 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the city. The city, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as complete, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the city.

- (18) Subsection 106.7 is amended to read as follows:

106.7 Approved agencies. The city is authorized to accept reports of approved inspection agencies, provided that such agencies satisfy the requirements as to qualifications and reliability.

- (19) Subsection 106.8 is amended to read as follows:

106.8 Evaluation and follow-up inspection services. Prior to the approval of a closed, prefabricated system and the issuance of a permit, the city shall require the submittal of an evaluation report on each prefabricated system, indicating the complete details of the system, including a description of the system and its components, the basis upon which the system is being evaluated, test results and similar information, and other data as necessary for the city to determine conformance to this code.

- (20) Subsection 106.9 is amended to read as follows:

106.9 Evaluation service. The city shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to this code.

- (21) Subsection 106.10 is amended to read as follows:

106.10 Follow-up inspection. Except where ready access is provided to systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the city shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the city with the follow-up inspection manual and a report of inspections upon request, and the system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

- (22) Subsection 106.11 is amended to read as follows:

106.11 Test and inspection records. Required test and inspection records shall be available to the city at all times during the fabrication of the system and the installation of the system, or such records as the city designates shall be filed.

- (23) Subsection 106.16 is amended to read as follows:

106.16 Reinspection and testing. Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with this code. The work or installation shall then be resubmitted to the city for inspection and testing.

- (24) Subsection 106.17 is amended to read as follows:

106.17 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the city.

106.17.1 Revocation. The city is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the notice is issued in error, on the basis of incorrect information supplied, or where it is determined that the building or structure, premises or portion thereof is in violation of any ordinance or regulation or any provisions of this code.

- (25) Subsection 106.18 is amended to read as follows:

106.18 Temporary connection. The city shall have the authority to authorize the temporary connection of the building or system to the utility source for the purpose of testing systems.

- (26) Subsection 106.19 is amended to read as follows:

106.19 Connection of service utilities. A person shall not make connections from a utility, source of energy, fuel, power, water system or sewer system to any building or system that is regulated by this code for which a permit is required, until authorized by the city.

- (27) Subsection 107.3 is amended to read as follows:

107.3 Prosecution of violation. The building official or any city official is authorized to request the legal counsel of the jurisdiction, at any time, to institute the appropriate proceeding at law or in equity to restrain, correct or abate any violation, or to require the removal or termination of the unlawful pool or spa in violation of the provisions of this code or of the order or direction made pursuant thereto.

- (28) Subsection 107.4 is amended to read as follows:

107.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs a pool or spa in violation of the approved construction documents or directive of the city, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law and this code.

- (29) Subsection 107.5 is amended to read as follows:

107.5 Stop work orders. Upon notice from the city, work on any system that is being performed contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person performing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the city shall not be required to give a written notice prior to stopping the work.

- (30) Subsection 107.7.1 is amended to read as follows:

108.7.1 Authority to condemn a system. Whenever the city determines that any system, or portion thereof, regulated by this code has become hazardous to life, health, property, or has become insanitary, the city shall order in writing that such system either be removed or restored to a safe or sanitary condition. A time limit for compliance with such order shall be specified in the written notice. A person shall not use or maintain a defective installation after receiving such notice. Where such installation is to be disconnected, written notice as prescribed in section 107.2 shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.

- (31) Subsection 107.7.2 is amended to read as follows:

107.7.2 Authority to disconnect service utilities. The city shall have the authority to order disconnection of utility services to the pool or spa regulated by the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. Where possible, the owner or the owner's authorized agent and occupant of the building where the pool or spa is located shall be notified of the decision to disconnect utility service prior to taking such action. If not notified prior to disconnecting, the owner, the owner's authorized agent or the occupant of the building shall be notified in writing as soon as practical thereafter.

(32) Subsection 107.7.3 is amended to read as follows:

107.7.3 Connection after order to disconnect. A person shall not make connections from any energy, fuel, power supply or water distribution system, or supply energy, fuel or water to any equipment regulated by this code that has been disconnected or ordered to be disconnected by the city or the use of which has been ordered to be discontinued by the city until the city authorizes the reconnection and use of such equipment. When any system is maintained in violation of this code, and in violation of any notice issued pursuant to the provision of this section, the city shall institute any appropriate action to prevent, restrain, correct or abate the violation.

(33) Section 108 is deleted and a new section 108 is added to read as follows:

108 Appeals. Any person aggrieved by a decision of the building official under this code may file a written appeal to the city secretary no later than ten days after the date the building official renders a decision, which such appeal shall be heard by the city council. The city council shall hear an appeal no later than 30 days after the date the appeal is filed with the city secretary. The city council may take written or oral testimony from the person filing the appeal and any city employee, officer, or official. The city council may affirm, reverse, or modify the decision of the building official. The city council's decision is final and no lawsuit shall commence until after such appeal is final.

(Ord. No. 2017-1254, § 2, 9-19-2017)

Sec. 8-862. - Copy of code on file; conflicts.

- (a) A copy of the 2015 International Swimming Pool and Spa Code shall be maintained by the city.
- (b) If a provision of said code is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or any regulation adopted pursuant thereto or any other ordinance or code or regulation of the city, the provision which establishes the higher standard for the promotion of health and safety shall control.

(Ord. No. 2017-1254, § 3, 9-19-2017)

Sec. 8-863. - Penalty.

Any person who violates or causes, allows, or permits another to violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or penalty as provided in section 1-17. Each occurrence of any violation of this article shall constitute a separate offense. Each day on which any such violation of this article occurs shall constitute a separate offense.

(Ord. No. 2017-1254, § 4, 9-19-2017)

Secs. 8-864—8-900. - Reserved.