

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 26-21

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE VI, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TO PROVIDE FOR ADOPTION OF THE *INTERNATIONAL SWIMMING POOL AND SPA CODE*, 2018 EDITION, AND LOCAL AMENDMENTS THERETO; PROVIDING THAT THE BOARD OF ADJUSTMENT SHALL BE THE BOARD OF APPEALS FOR PURPOSES SET OUT HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the International Code Council (ICC) has developed a set of comprehensive and coordinated national model construction codes (known as the "International Codes"); and,

WHEREAS, the *International Swimming Pool and Spa Code* has been prepared by the ICC, and in addition to review by the NCTCOG, has been reviewed by Town staff; and,

WHEREAS, the current swimming pool code in the Town is the 1985 edition of the *Uniform Swimming Pool, Spa and Hot Tub Code*, and the Town's swimming pool code should be updated to the most current published building code available; and,

WHEREAS, the Texas Legislature passed House Bill 2858 (HB 2858) in 2020 adopting the *International Swimming Pool and Spa Code* for municipalities of the state; and,

WHEREAS, HB 2858 provides that municipalities may adopt local amendments to the *International Swimming Pool and Spa Code*; and,

WHEREAS, the 2018 edition of the *International Swimming Pool and Spa Code* is the most current published code available that addresses the general design and construction aspects of swimming pools and spas in the Town; and,

WHEREAS, the Town Council of the Town of Flower Mound has determined that it is in the best interest of the citizens of the Town of Flower Mound to update and adopt the 2018 edition of the *International Swimming Pool and Spa Code* and has determined that this will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public; and,

WHEREAS, the Town Council of the Town of Flower Mound further desires to adopt certain local amendments to such Code reflecting the unique needs of the Town of Flower Mound;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are found to be true and correct factual and legislative determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 14-171 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Uniform Swimming Pool, Spa, and Hot Tub Code Adopted," is hereby deleted and replaced with the following provision:

"Sec. 14-171. International Swimming Pool and Spa Code Adopted.

The *International Swimming Pool and Spa Code*, 2018 edition, a copy of which is on file in the office of the town secretary, is hereby adopted and designated as the swimming pool code of the town, the same as though these provisions of the *International Swimming Pool and Spa Code*, 2018 edition, were copied at length in this section; subject to the deletions, amendments, and additions provided in section 14-172."

SECTION 3

From and after the effective date of this Ordinance, Section 14-172 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Amendments to Uniform Swimming Pool, Spa and Hot Tub Code," is hereby deleted and replaced with the following provision:

"Sec. 14-172. Local Amendments to International Swimming Pool and Spa Code

The *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended by amending only the enumerated sections and provisions, as follows, and all sections and provisions not expressly amended or deleted shall remain in full force and effect:

- (a) Section 101.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 101.1. Title. These regulations shall be known as the *Swimming Pool and Spa Code* of the Town of Flower Mound and shall be cited as such and will be referred to herein as “this code.”

- (b) Section 102.9 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 102.9. Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law, to include but not limited to;

1. Texas Department of State Health Services (TDSHS); Standards for Public Pools and Spas; §285.181 through §285.208, (TDSHS rules do not apply to pools serving one- and two-family dwellings or townhouses).
2. Texas Department of Licensing and Regulation (TDLR); 2012 Texas Accessibility Standards (TAS), TAS provide the scoping and technical requirements for accessibility for Swimming Pool, wading pools and spas and shall comply with 2012 TAS, Section 242. (TAS rules do not apply to pools serving one- and two-family dwellings or townhouses).

Exception: Elements regulated under Texas Department of Licensing and Regulation (TDLR) and built in accordance with TDLR approved plans, including any variances or waivers granted by the TDLR, shall be deemed in compliance with the requirements of this Chapter.

- (c) Section 103.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 103.1. Creation of agency. The Building and Inspections Department is hereby created and the official in charge thereof shall be known as the *code official*.

- (d) Section 105.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 105.1. Required. Any owner, contractor, or authorized agent 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 causes any

such work to be performed, shall first make application to the *code official* and obtain the required *permits*.

It shall be the responsibility of any person, firm, or corporation, upon submittal of an application for a building permit for work regulated by this code, to register as a contractor with the town. This form must be submitted with the *permit* application. Said registration shall be upon forms supplied by the *code official* and shall become null and void on December 31st of each year. An appropriate fee for registration shall be assessed in accordance with the provisions of Appendix A of the Code of Ordinances of the Town of Flower Mound.

Exception: Any residential property owner who, at his legal residence, desires to personally make or perform any installation, alteration, repair, replacement, or remodel regulated by this code shall be exempt from paying a registration fee. For this section, *legal residence* shall be defined as property for which a property owner shows proof of a homestead exemption.

Any contractor registration regulated by this code may be placed on hold or suspended by the *code official*, preventing any additional permits being issued, if it is determined by the *code official* that corrective action is needed for compliance with the requirements of Section 18-32 of the Code of Ordinances of the Town of Flower Mound. If any contractor registration regulated by this code is suspended, the procedures outlined in Chapter 18, Article II, of the Code of Ordinances of the Town of Flower Mound shall apply. Any registration placed on hold more than three times in a calendar year may be subject to suspension by the *code official*.

- (e) Section R105.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section R105.2. Application for permit. Each application for a permit shall be filed with the code official on an electronic application form furnished for that purpose and shall contain a general description of the proposed work and its location. The permit application shall contain such other information required by the code official.

- (f) Section 105.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 105.3. Construction documents. Construction documents, engineering calculations, diagrams, and other such data shall be submitted electronically. {remaining text unchanged}.

- (g) Section 105.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 105.4 Time limitation of application. An application for a *permit* for any proposed work shall be deemed to have been abandoned 45 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the *code official* is authorized to grant one or more extensions of time for additional periods not exceeding 45 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- (h) Section 105.5.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 105.5.3 Expiration. Every swimming pool permit issued by the *code official* under the provisions of this code shall expire by limitation and becomes null and void if the building or work authorized by such permit has not received final inspection approval within 180 days of the issuance of the permit. In the event of the expiration of the permit, no work or inspections shall be performed until a new permit shall be first obtained to do so, and the fee therefor shall be equal to the original fee.

- (i) Section 105.5.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 105.5.4. Extensions. Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The *code official* may extend the time for action by the permittee for a period not exceeding 30 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken.

- (j) Section 105.6.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 105.6.3. Fee Refunds. Deleted

- (k) Section 107.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 107.3. Prosecution of violation. Deleted

- (l) Section 107.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 107.4. Violation penalties. Deleted

- (m) Section 107.5 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 107.5. Stop work orders. Upon notice from the *code official*, work on any system that is being done 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 agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.

- (n) Section 108 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety and replaced to read as follows:

Section 108.1 General. Appeals of orders, decisions, or determinations made by the *code official* relative to the application and interpretation of this code, shall be done in compliance with Chapter 78, Article II, Division 3. Board of Adjustment of the Town's code of ordinances. The members of the town board of adjustment are hereby appointed as the board of appeals as provided by the *International Swimming Pool and Spa Code*, 2018 edition, and any changes in membership of the board of adjustment shall likewise be reflected in the membership of said board of appeals.

- (o) Section 202 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended by amending the definition of "pool", which shall be inserted into the list of definitions to replace the amended definition in alphabetical order:

Section 202. Definitions. {Text of existing definitions save and except to the extent specifically amended hereby remains unchanged.}

POOL. Any structure intended for swimming or recreational bathing that contains water more than 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas. See “Public swimming pool” and “Residential swimming pool.”

- (p) Section 302.6 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 302.6. Wastewater discharge. Where wastewater from pools or spas, such as backwash water from filters discharge to a building drainage system, the connection shall be through an air gap in accordance with the International Plumbing Code or the International Residential Code as applicable in accordance with Section 102.7.1.

- (q) Section 303 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 303 Energy. Deleted

- (r) Section 304 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 304. Flood Hazard Areas. Deleted

- (s) Section 305.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 305.1. General. The provisions of this section shall apply to the design of barriers for restricting entry into areas having pools and spas. Where spas or hot tubs are equipped with a lockable safety cover complying with ASTM F1346, the areas where those spas or hot tubs are located shall not be required to comply with Sections 305.2 through 305.7.

- (t) Section 305.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 305.2.1. Outdoor swimming pools and spas. Outdoor pools and spas and indoor swimming pools shall be surrounded by a barrier that complies with Sections 305.2.1 through 305.7. At all times during the construction of a pool, or until a permanent barrier meeting all the

requirements of AG105.2 is installed, a temporary barrier that is at least thirty-six inches (36") in height, and meets the opening provisions of 305.2.2, and shall completely surround the pool excavation.

- (u) Section 305.2.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 305.2.4. Mesh fence as barrier. Deleted

- (v) Section 305.2.5 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 305.2.5. Closely spaced horizontal members. Where a barrier is composed of horizontal and vertical members, and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members must be on located on the pool or spa side of the fence unless the barrier is a common fence between neighbors or the tops of any one member is at least 45 degrees, when measured from the horizontal, in which such members would not be considered horizontal. Spacing between vertical members shall not exceed 1.75 inches (44mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

- (w) Section 305.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended by adding an exception to read as follows:

Section 305.4. Structure wall as a barrier. Where a wall of a dwelling or structure serves as part of the barrier and where doors or windows provide direct access to the pool or spa through that wall, one of the following shall be required:

1. Operable windows having a sill height of less than 48 inches above the indoor finished floor and doors shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017. {remaining text unchanged}.

Exception: Windows located on any story above grade level and windows equipped with a locking device located a minimum of 54" above the finished floor are not required to have an alarm.

{remaining text unchanged}.

- (x) Section 306.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 306.3. Step risers and treads. Step risers for decks of residential pools and spas shall be uniform with the greatest riser height in any set of stairs not exceeding the smallest by more than 0.375 inch and shall have a height not exceeding 7.5 inches.

- (y) Section 306.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 306.4. Deck steps handrail required. Deleted.

- (z) Section 306.9.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 306.9.1. Hose bibbs. Deleted

- (aa) Section 307.1.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 307.1.2. Colors and finishes. Deleted.

- (bb) Section 307.1.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 307.1.4. Accessibility. Deleted.

- (cc) Section 307.2.4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 307.2.4. Surface condition. Deleted.

- (dd) Section 309.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 309.2. Treatment and circulation system equipment. Deleted.

- (ee) Section 311.6 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 311.6. Pressure or vacuum gauge. Deleted.

- (ff) Section 311.7 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 311.7. Flow measurement. Deleted.

- (gg) Section 311.8 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 311.8. Instructions. Deleted.

- (hh) Section 315.2.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 315.2.1. Circulation systems. Deleted.

- (ii) Section 316.4.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 316.4.2. Access prohibited. Deleted.

- (jj) Section 319 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 319. Sanitizing Equipment. Deleted.

- (kk) Section 320.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 320.1. Backwash water or draining water. Backwash water and draining water shall be discharged to the sanitary sewer, or if no sanitary sewer is available to the property (lots with septic systems), it shall be disposed of by other means approved by the state or local authority.

- (ll) Section 321.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 321.2. Artificial lighting required. Deleted.

- (mm) Section 321.2.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 321.2.1. Pool and deck illumination. Deleted.

- (nn) Section 321.2.2 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 321.2.2. Illumination intensity. Deleted.

- (oo) Section 321.2.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 321.2.3. Underwater lighting. Deleted.

- (pp) Section 321.3 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Section 321.3. Emergency illumination. Deleted.

- (qq) Chapter 4 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Chapter 4. Public Swimming Pools. Deleted.

- (rr) Chapter 5 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Chapter 5. Public Spas and Public Exercise Spas. Deleted.

- (ss) Chapter 6 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby deleted in its entirety to read as follows:

Chapter 6. Aquatic Recreation Facilities. Deleted.

- (tt) Section 804.1 of the *International Swimming Pool and Spa Code*, 2018 edition, is hereby amended to read as follows:

Section 804.1. General. The minimum diving water envelopes shall be in accordance with Table 804.1 and Figure 804.1, or the manufacturer's specifications, whichever is greater. Negative construction tolerances shall not be applied to the dimensions of the minimum diving water envelopes given in Table 804.1."

SECTION 4

From and after the effective date of this Ordinance, Section 14-173 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Location requirements," is hereby deleted and replaced with the following provision:

"Sec. 14-173. Location requirements.

- (a) **Front yard.** No swimming pool, spa, or hot tub shall be located within the required or established front yard. On a corner lot, where both street exposures are treated as front yards, for the purposes of this section, the front yards shall be determined by the placement of the main building along with the legal address.
- (b) **Side yard.** All swimming pools, spas, and hot tubs must be located at least five feet from the side property line to the water's edge.
- (c) **Rear yard.** All swimming pools, spas, and hot tubs must be located at least five feet from the rear property line to the water's edge.
- (d) **Easements.** No swimming pool, spa, or hot tub, including applicable decks, shall be located within an easement.
- (e) **Equipment.** No equipment may be placed within the required or established front yard as defined in subsection (a) of this section, or within any easement. Equipment in relation to the pool shall not be affixed to any required perimeter fencing or common fences between property owners. Adequate drainage must be provided between any equipment and any property line. At a minimum, two feet must be maintained."

SECTION 5

From and after the effective date of this Ordinance, Section 14-176 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Required inspections," is hereby deleted and replaced with the following provision:

"Sec. 14-176. Required inspections.

- (a) **Pre-drainage inspection.** This visual inspection verifies and approves the Drainage and Access plan that was submitted during the plan review phase.

- (b) **Belly steel and pool placement inspection.** Before any concrete or gunite can be placed, the belly steel and placement of the pool shall be inspected and approved. Rebar shall be a minimum size of three-eighths of an inch and located no more than 12 inches on center each way.
- (c) **Deck steel, electrical bond, electrical underground and plumbing.** Before any concrete is placed for the pool deck, the placement of steel and the electrical bond shall be inspected and approved. The concrete deck shall be a minimum thickness of 3½ inches. Rebar shall be a minimum size of three-eighths of an inch and located no more than 18 inches on center each way. The bond conductor shall be a minimum size of No. 8 AWG. A minimum of four ground clamps that are evenly spaced around the pool shall be required to electrically bond the pool from stray ground current. All electrical conductors buried in the ground shall be inspected and approved prior to covering. All pool plumbing shall be subjected to a minimum water test of 15 psi.
- (d) **P-trap and gas line.** Before the backwash line, p-trap, and gas line are covered in any way, those items shall be inspected and approved. All pools shall have a p-trap and backwash line connected to the sanitary sewer.

Exception: Aboveground pools and spas that have a capacity of 750 gallons or less are not required to install a p-trap or backwash line. On lots that do not have access to town sewer and where sanitary drainage is provided through a septic system, no p-trap or backwash line is required; however, adequate drainage must be provided to allow for drainage of the pool.
- (e) **Pre-plaster inspection.** Before any water is placed in the pool, the permanent fence shall be installed, inspected, and approved.
- (f) **Final drainage inspection.** At the time of this inspection, all drain lines and dirt work must be completed. Installation of permeant vegetation in all disturbed areas must be installed before receiving a final drainage approval.

Exception: If pre-approved, the requirement for final vegetation may be waived. If permeant vegetation is waived, erosion control devices would be required in all disturbed areas before this inspection could be approved.

- (g) **Pool final.** All pool permits must receive an approved final inspection within 180 days of the issue date, or the permit will be expired.”

SECTION 6

All ordinances, orders, or resolutions heretofore passed and adopted by the Town of Flower Mound, Texas, are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, are in conflict herewith.

SECTION 7

If any section, subsection, clause, phrase, or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unconstitutional, the remaining sections, subsections, clauses, phrases, and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

SECTION 8

Any person who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 9

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 10

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS 21ST DAY OF JUNE, 2021.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY