

**CITY OF LUMBERTON, TEXAS
ORDINANCE NO. 22-1265**

AN ORDINANCE AMENDING CHAPTER 44 (SWIMMING POOLS) OF THE CITY OF LUMBERTON, TEXAS CODE OF ORDINANCES TO REGULATE THE LOCATION OF SWIMMING POOLS, HOT TUBS AND ACCESSORIES; REQUIRING A PERMIT; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND PENALTY OF NOT LESS THAN \$25.00 NOR MORE THAN \$500.00 PER DAY.

WHEREAS, the City of Lumberton, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Lumberton has determined that in the best interest of the health, safety and welfare of the citizens of the City of Lumberton, Texas, amendments to Chapter 44 are necessary to regulate the location of swimming pools (*defined in Chapter 44 as having more than two feet in depth at any point*), hot tubs and accessories, to provide for the expressed requirement for permits and impose a penalty for a violation of Chapter 44 as set forth below.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Code Amendment. That the City of Lumberton Code of Ordinances, Chapter 44, Swimming Pools, is hereby amended to include a new sections 44-19 through 44-21, as follows:

Sec. 44-19. Location of private and public swimming pools, hot tubs and accessories.

- (1) Swimming pools (including water features, slides, pool decks, pool equipment) and hot tubs cannot be located within any easements.
- (2) Swimming pools (including water features, slides, pool decks, pool equipment) and hot tubs must be located in the rear of the lot and behind any dwelling or buildings or within the side yard of the lot if the side yard does not border a street and the location of the swimming pool (including water features, slides, pool decks, pool equipment) or hot tub is behind the front building line.
- (3) A swimming pool (including water features, slides, pool equipment) or hot tub cannot be located within ten feet (10') of the rear property line and seven and a half feet (7.5') of the side lot line. The pool deck designed to serve a swimming pool or hot tub cannot be located within five feet (5') of the rear lot line and seven and a half feet (7.5') of the side lot line.
- (4) Drainage swale adjacent to any property line located in the setback must be maintained to prevent drainage of any water onto neighboring property.
- (5) All overflow, drainage and drain lines must be contained on the property in which the swimming pool or hot tub is located and must be designed to drain to the front of the lot in accordance with the City's drainage criteria.

- (6) A swimming pool must be located no less than three feet (3') from dwellings or buildings with foundations and at least one foot (1') for every one foot of depth, measured to any point of excavation. For example, if a portion of a pool is five feet deep, that portion of the pool must be located at least five feet from a dwelling or building that utilizes a foundation. The measurement will be from the point at which the natural grade touches the foundation and any area excavated for the pool construction. Above ground swimming pools and above ground hot tubs do not have a minimum required setback from foundations.

Sec. 44-20. Permit.

It shall be unlawful for any person or company to construct or install a swimming pool or hot tub without first obtaining a permit from the city. An application for a permit under this Chapter shall be accompanied with a survey or dimensioned site plan indicating the lot size and dimension, location of all roads abutting the property, structures on the property (both existing and proposed), the location of the swimming pool or hot tub and associated equipment relative to any property lines, easements and existing buildings, and a drainage design plan. Construction plans with specifications, including the depth and dimensions of the swimming pool or hot tub and any associated structures, shall be submitted with the completed permit application. All drawings shall be to scale, legible and dimensioned to indicate the location, nature and extent of all proposed work. Permits must receive an approved final inspection within 180 days of the issue date, or the permit will be expired. The applicant may request a one-time extension of the permit expiration date for an additional 60 days which may be granted at the sole discretion of the city.

Sec. 44-21. Penalty.

It shall be unlawful for any person or company to construct or install a swimming pool or hot tub without first obtaining a permit from the city. A violation of this chapter shall constitute a Class C misdemeanor and punishable by a fine of not less than \$25.00 nor more than \$500.00 per day the violation continues. The penalty provided in this section shall be cumulative and not exclusive of any other civil or injunctive remedy provided by applicable law.

Section 3. This ordinance shall be cumulative of all provisions of ordinances of the City of Lumberton, except where the provisions of this ordinance are in direct conflict therewith, in which case the prior ordinance or parts thereof are hereby repealed to the extent of the conflict.

Section 4. All rights and remedies of the City of Lumberton are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulations found in Chapter 44 which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared void, ineffective, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. It is the intention for the City Council that this ordinance shall become a part of the Lumberton City Code of Ordinances and it may be renumbered and codified therein accordingly.

Section 7. It is hereby found and determined that the meeting at which this ordinance was passed was open to the public, as required by Chapter 551.001, *et seq.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meeting was given.

Section 8. This ordinance shall go into effect immediately after approval and publication as required by law.

CERTIFICATE

I hereby certify that the foregoing was presented to the City Council for the City of Lumberton, Texas during a meeting on the 22nd day of November, 2021 for a first reading and again on the 28th day of February, 2022 for a second reading. A quorum of the City Council being then present at both readings, it was then duly moved and seconded that the resolution be adopted, and such resolution was then adopted.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL FOR THE CITY OF LUMBERTON, TEXAS, on the 28th day of February, 2022.

By: _____
Don Surratt, Mayor
City of Lumberton, Texas

ATTEST:

Susan Collins, City Secretary