

CITY OF HIGHLAND HAVEN
ORDINANCE # 099
April 16, 2019

REGULATING THE CONSTRUCTION OF PRIVATE SWIMMING POOLS AND SPAS; AND PROVIDING AN EFFECTIVE DATE OTHER RELATED MATTERS

WHEREAS, as authorized under law, and in the best interest of the citizens of Highland Haven, Texas, the Mayor and Board of Aldermen deem it expedient and necessary to adopt regulations regarding the construction of swimming pools and spas; and

WHEREAS, the Board of Aldermen of Highland Haven, Texas wishes to establish Ordinance No. 99 in the Code of Ordinances of the City of Highland Haven, Texas regulating the construction of swimming pools and spas; and

WHEREAS, the Board of Aldermen of Highland Haven, Texas wishes to provide minimum safety requirements for swimming pools and spas constructed in the community; and

WHEREAS, the Board of Aldermen of Highland Haven, Texas wishes that this ordinance not replace or supplement more restrictive requirements by State statutes or International Building Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HIGHLAND HAVEN, TEXAS, BOARD OF ALDERMEN THAT:

I. PRIVATE RESIDENTIAL SWIMMING POOLS AND SPAS.

(A) Permits and approval.

- (1) This section applies only to private pools. Private pool means any swimming pool located on private, single-family residential property under the control of the homeowner or tenant, the use of which is limited to members of the homeowner's or tenant's family or invited guests.
- (2) Swimming pool construction or above ground swimming pool (defined as any pool or spa type structure that is deeper than 24 inches) erection in residential zoned areas will not begin until a swimming pool permit has been obtained. No pool may be used until the final inspection has been completed. The site plan for the pool must include the required approval from the local electric service provider.
- (3) A site plan for the proposed pool must be submitted to the City of Highland Haven and a fee for issuance of a permit must be paid at that time. The site plan will be reviewed to ensure that the pool, the site and all matters pertaining thereto meet the requirements of this ordinance. Once all requirements have been met and fees paid, a permit will be issued for construction or erection of a pool.
- (4) Any permit issued shall be valid for a period of one year from the date of issuance. If a pool has not been completed and received final inspection and approval within that time, then the applicant must begin the permit process again, including the payment of a new application fee.

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(B) Requirements.

A swimming pool may be constructed or erected and operated in conjunction with any principal use in a residential zoned area or permitted special use when:

- (1) The pool is not located in any minimum yard space as required in each zoning district. Pools are not permitted in front yard areas or an area that is in front of any building line;
- (2) Measurements will be taken between the line of the building and/or outside appliance and the applicable lot line
 - (a) **SIDE YARDS** — No pool will be located within five (5) feet of the adjacent lot line. On corner lots, no pool will be located within ten (10) feet of the side lot line adjacent to the street.
 - (b) **REAR YARDS** — No pool will be constructed closer than five (5) feet to the edge of water in Lake LBJ when filled to its normal water level of 825 feet above sea level. In the case of lots with both a front and back street, no pool will be located nearer than twenty (20) feet to the rear lot line. Lots aligned back-to-back and sharing a common rear boundary line will not have any pool nearer than ten (10) feet to the common lot line. Construction, maintenance and operation of pool structure will not contribute to the erosion or flooding of adjacent properties or impede storm water drainage.
- (3) A wall or fence to limit access to the pool must be built and maintained and shown in any plan submitted, including materials. The wall or fence must be not less than four (4) feet high, constructed of a material that will not allow a four-inch (4") sphere to pass through it and which shall have a self-latching gate at all entrances through the wall or fence. As an alternative to the construction of a wall or fence, there may be installed a power safety cover, operated by use of a key, that conforms to the specifications contained in ASTM F 1346-91 as issued by ASTM, Inc. (formerly known as the American Society for Testing and Materials), including any and all amendments and revisions thereto; safety cover must be closed when pool is unattended by an adult.
- (4) All lighting must meet current building codes and be shielded or directed to face away from adjoining residences. If lights are not individually shielded, they shall be so designed that direct rays from the lights shall not be visible from adjacent properties; and
- (5) All specifications for the pool must meet state or federal regulations and rules.

(D) Nuisance and enforcement.

- (1) The failure to place a fence or safety cover over a pool as provided herein, or the failure to adequately maintain the fence or safety cover in good repair so same shall be effective in creating a safety barrier to entry into the pool, shall constitute a nuisance and shall subject the occupant and owner of the property to all provisions of the ordinances of the City of Highland Haven, including the right

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and authority of the city to seek and obtain injunctive relief, including mandatory injunctive relief, against the occupant and owner of the property in order to correct and remedy the nuisance condition. If action is required to be taken by the city to enforce this subchapter through court proceedings, the city may recover its attorney fees from the occupant and/or owner, or jointly and severally, as determined by the court.

- (2) The failure of an occupant and/or owner to maintain the water in the pool in a healthful condition to the extent that same shall constitute a hazard to the health or welfare of surrounding property owners shall constitute a nuisance and shall subject the occupant and owner of the property to all provisions of the nuisance ordinances of the City of Highland Haven, including the right and authority of the city to seek and obtain injunctive relief, including mandatory injunctive relief, against the occupant and owner of the property in order to correct and remedy the nuisance condition. If action is required to be taken by the city to enforce this subchapter through court proceedings, the city may recover its attorney fees from the occupant and/or owner, or jointly and severally, as determined by the court.

- (E) **Enforcement responsibility.** The City Code Enforcement Officer, Building Permit Official or Mayor shall have enforcement responsibility for this ordinance.

II. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

III. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

APPROVED AND ADOPTED this, the 16th day of April, 2019 by a vote of the Board of Aldermen of the City of Highland Haven, Texas.

Olan Kelley, Mayor

Attest:

Jeannie Gruetzner, City Secretary