

ORDINANCE NO. 3619

AN ORDINANCE to repeal Chapter 11 (SWIMMING POOLS AND HEALTH SPAS) of, and to add a new Chapter 11 (SWIMMING POOLS, SPA POOLS AND HEALTH CLUBS) to, Title 11 (HEALTH, ENVIRONMENTAL AND SANITARY REGULATIONS) of The Code of the City of Alexandria, Virginia, 1981, as amended.

WHEREAS, the health and safety of the public requires the regulation of swimming pools, spa pools, and health clubs located within the City of Alexandria; and

WHEREAS, existing provisions in the city code that govern swimming pools and health spas have been in effect for several years and no longer address current technologies in pool design, pool safety, and disinfection techniques; and

WHEREAS, in the past, neighboring jurisdictions in Northern Virginia have varied widely in their regulation of swimming pools and health spas; and

WHEREAS, a committee of sanitarians from the health districts of Northern Virginia, under the auspices of the Northern Virginia Planning District Commission, has prepared, for adoption and use by Northern Virginia jurisdictions, a set of swimming pool, spa pool and health club regulations that incorporate nationally recognized health and safety standards, as well as standards developed by local health staff; and

WHEREAS, adoption of these model regulations and their application in the City of Alexandria will help to establish uniform standards for the construction, operation and maintenance of swimming pools, spa pools and health clubs throughout Northern Virginia, and will permit consistent interpretation and enforcement of such standards on a regional scale; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 11 of Title 11 of the Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is repealed.

Section 2. That Title 11 of the Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new Chapter 11 to read as follows:

Chapter 11

Swimming Pools, Spa Pools and Health Clubs

Sec. 11-11-1 Regulations governing swimming pools, spa pools and health clubs; enforcement of regulations.

The city manager is hereby authorized and directed to promulgate, and is authorized from time to time to amend or supplement and to enforce, regulations establishing standards and requirements for the design, operation and maintenance of swimming pools, spa pools and health clubs located with the city. Said regulations shall be designed and intended to protect the health and safety of persons using the regulated swimming pools, spa pools and health clubs, and shall include provisions for their enforcement. Notwithstanding the above provisions, any regulations prepared pursuant to this section, including any amendments and supplements thereto, shall not become effective until they have been presented to and approved by city council. The city manager is authorized to delegate the authority provided to her by this section to the director of the department of health.

Sec. 11-11-2 Definitions.

The following terms shall, for purpose of this chapter and any regulations promulgated pursuant to section 11-11-1, have the meanings set forth below:

(a) Health Club. Any exercise center, figure salon, fitness center, gymnasium, health club, health spa, or any other establishment by any other name which provides exercise equipment and dressing room, shower or toilet facilities, or any combination of such facilities, that are intended for patron use, but excluding facilities used by or under the direct supervision and control of licensed medical personnel located in a medical facility, facilities located in athletic departments of schools, colleges, universities and facilities of professional athletic teams.

(b) Spa pool. Any structure, basin, chamber or tank, located either indoors or outdoors or both, containing a body of water intended to be used for recreational and/or therapeutic use which usually contains a waterjet and/or aeration system, is operated at high temperatures, and is not drained, cleaned or refilled after each individual use. The term includes, but is not limited to, units designed for hydrojet circulation, hot water, cold water, mineral bath, air induction bubbles, or any combination thereof. Common terminology for a spa pool includes, but is not limited to, "therapeutic pool," "hydrotherapy pool," "whirlpool," "hot spa," and "hot tub." The term "spa pool" excludes "residential spa pool," and spa pools or facilities used by or under the direct supervision and control of licensed medical personnel located in a medical facility, facilities located in the athletic department of schools, colleges and universities and facilities of professional athletic teams.

(c) Swimming pool. Any structure, basin, chamber or tank, located either indoors or outdoors or both, containing a body of water intended to be used for swimming, diving and/or

recreational bathing. The term "swimming pool" shall not include any "residential swimming pool" or "spa pool." The term "swimming pool" shall include, but not be limited to, the following:

(1) Combination swimming pool and diving pool. A swimming pool designed for swimming and diving.

(2) Diving pool. A swimming pool designed and used for diving only.

(3) Training pool. A swimming pool designed and used for teaching and training water activities.

(4) Wading pool. A swimming pool designed for wading or partial immersion of the human body which is capable of impounding water to a depth not greater than eighteen (18) inches and which is separate from any other swimming pool within a pool area.

Sec. 11-11-3 Penalty for violation of regulations.

(a) It shall be unlawful for any person to fail to comply with any of the regulations promulgated pursuant to this chapter. Any person who fails to comply with any such regulation shall be in violation of this chapter and, for each such violation, shall be liable for a civil penalty. Each seven-day period, or any part thereof, during which a violation of a regulation exists or persists shall constitute a separate violation of this chapter.

(b) The civil penalty for any violation of this chapter shall be \$50.00; provided, that the penalty for the second and any subsequent violation of the same regulation, in any 12-month period, at the same swimming pool, spa pool or health club shall be \$100.00.

(c) Upon determining that one or more violations of this chapter have occurred, the city manager, or her delegate, shall cause a written notice of the violation or violations to be delivered to the owner or operator of the swimming pool, spa pool, or health club that is in violation of this chapter, or to the officer, employee or agent of such owner or operator who is the on-site manager of the pool or club. The notice shall, with respect to each violation, contain the following information:

(1) a description of the violation, with a citation to the regulation that has been violated;

(2) a statement of the amount of the civil penalty to be assessed;

(3) a statement that the person in violation may elect to make an appearance in person, or in writing by mail, to the

treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, and a statement of the date by which such penalty shall be paid; and

(4) a statement that, in the alternative, the person in violation may elect to contest the violation by filing with the director of the health department, within ten days of receipt of the notice of violation, a written notice of the person's election to contest the violation, and further that, in the event the person elects to contest the violation, the person shall be entitled to an administrative hearing on the violation before the director of the department of health, or a designee of the director.

(d) If, after a hearing held pursuant to subsection (c)(4), the director or the designee of the director finds that a violation of this chapter has occurred, the person found to be in violation shall, within 10 days of the finding, pay the civil penalty originally assessed.

(e) If a person charged with a violation of this chapter does not elect to admit liability or plead no contest and to pay the assessed penalty, or, following a hearing under subsection (c)(4) which results in a finding that the person has violated the chapter, does not pay the assessed penalty, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or a motion for judgment, with the same right of appeal as provided in civil actions at law.

(f) A plea of no contest to, and a finding or admission of liability to, a violation of this chapter shall not be deemed a criminal conviction.

(g) The remedies provided in this section are cumulative and not exclusive. The designation of a violation of this chapter as a civil violation shall not be construed as prohibiting city officials from initiating appropriate administrative or civil procedures to prevent, correct, restrain or abate violations of the chapter.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

PATRICIA S. TICER
Mayor

Final Passage: March 20, 1993