

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, FOR THE PURPOSE OF REQUIRING AND REGULATING AUTOMATED EXTERNAL DEFIBRILLATORS AT ALL HOTELS AND PUBLIC POOL AREAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT A VIOLATION IS A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$500 PER DAY, AND DECLARING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

1. Findings of Fact

The City Council of the City of Iowa Colony, Texas hereby finds the following facts:

- a. This ordinance protects the health, safety, and welfare of the public and increases the chance of survival from sudden cardiac arrest.
- b. All requirements of law concerning the passage of this ordinance have been satisfied.
- c. All statements of fact in any part of this ordinance are true.

2. Definitions

- a. **“Hotel”** herein shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, **tourist homes, houses** or courts, lodging houses, inns, rooming houses or any other permanent building or structure where rooms are furnished for a consideration.
- b. **“Pool”** herein shall mean any above or below ground swimming pool, hot tub, wading pool, lap pool, or similar container of water designed, adapted, or used for persons to enter or be in that water, but not a bathtub designed and used for private bathing in a private space, and not a portable child’s wading pool.
- c. **“Public pool”** herein shall mean a pool in any place other than a private, single-family home that is not used as a “hotel” as herein defined. **For example, a pool at a VRBO house is a public pool for purposes of this ordinance.**

3. Automatic External Defibrillators Required. Location Requirements

- a. Each hotel located in the incorporated limits of the City of Iowa Colony, Texas (“the City”) shall have at least one Automated External Defibrillator (AED) in the lobby area of that hotel, at a location meeting all of the following requirements: (i) the location is easily accessed and conspicuously visible from the lobby; and (ii) the location is approved in writing by the Fire Marshal.
- b. Each public pool located in the incorporated limits of the City shall have at least one Automated External Defibrillator (AED) in a location meeting all of the following requirements: (i) the location is easily accessed and conspicuously visible from the pool; (ii) the location is within the enclosure, yard, room, or fenced-in area

containing the pool, if there is such an enclosure, yard, or fenced-in area; (iii) the location is within forty feet of the pool; and (iv) the location is approved in writing by the Fire Marshal. Multiple public pools, for example a swimming pool with an adjacent wading pool and hot tub, may share an AED, provided the location of the AED complies with this ordinance as to each of those public pools.

4. Types of AEDs

All AEDs required by this ordinance must be of a type approved by the United States Food and Drug Administration (FDA).

5. Public Availability

All AEDs required by this ordinance must be available for public use.

6. Marker Signs

Standard industry accepted signs shall mark the location of each AED required by this ordinance.

7. Maintenance and Inspection

All AEDs required by this ordinance shall be maintained and tested according to manufacturer's guidelines; and shall be inspected monthly to verify the AED is placed at its designated location, reasonably appears to be ready for use, and does not reasonably appear damaged in a manner that might prevent operation.

8. Records and Supplies

Maintenance records of AEDs required by this ordinance shall be kept for a period of 1 year, and disposable supplies (defibrillation pads) shall be replaced upon or before their expiration date, as to each AED required by this ordinance.

9. Reporting Incidents

A person or entity that provides emergency care to a person in cardiac arrest by using an automated external defibrillator shall promptly notify the local emergency medical services provider or the police department of the City.

10. Persons Responsible for Compliance

The following persons shall each be fully responsible for compliance with this ordinance at a hotel or public pool:

- a. Each manager, of whatever rank or title, of the hotel or public pool;
- b. Each owner of the hotel or public pool; and
- c. Each operator of the hotel or public pool.

11. Conflicts in Terms

In the event of any conflict in the terms of this ordinance, or between the terms of this ordinance and any other ordinance, the more restrictive provision shall govern and control.

12. Nonwaiver of Immunity

Nothing herein, in any document issued pursuant hereto, or in any action, omission, or condition pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City or any of its agents, officers, attorneys, or employees.

13. Nonwaiver by Nonenforcement

That the failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy under this Ordinance or any other law concerning the subject matter hereof shall never be construed as a waiver of the City's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

14. Non-Liability of City

Neither the City nor any of its agents, officers, attorneys, or employees shall have any liability of any nature to any person other than the City for any act, omission, or condition in any way directly or indirectly related to the subject matter of this ordinance.

15. Severance Clause

If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.

16. Enforcement

a. Penalty and Continuing Offenses

Any person participating in any violation of any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be assessed a fine of not more than Five Hundred (\$500.00) Dollars. Each calendar day or portion of a calendar day a violation continues or recurs shall constitute a separate offense. No culpable mental state shall be required for a violation of this ordinance.

b. Other Remedies

Any and/or all of the following civil remedies may be imposed for violation of any provision of this ordinance: injunctive relief, declaratory relief, monetary damages, attorney's fees and all other expenses incurred in enforcing the City's rights or the violator's obligations or liabilities, costs of court, interest as provided by law, and all other remedies at law or in equity.

c. Cumulative Obligations and Remedies; No Election of Obligations or Remedies

- i. All obligations, prohibitions, and offenses under this ordinance or under any other

applicable laws are cumulative. No such obligations, prohibitions, or offenses shall be construed to limit any other such obligations, prohibitions, or offenses.

- ii. All remedies and penalties in favor of the City or against any person other than the City under this ordinance, or under any other applicable laws are cumulative. The pursuit or receipt by the City of any one or more penalties or remedies shall not constitute an election of remedies, and shall not prevent the City from pursuing and receiving any and all other remedies and penalties of any nature whatsoever.
- iii. Without the limiting the generality of the foregoing, the City may pursue a criminal prosecution hereunder without pursuing civil remedies for a violation hereof; the City may pursue civil remedies without pursuing a criminal prosecution; or the City may do both.

17. Publication

The City Secretary shall cause the caption of this ordinance to be published in the Alvin Sun, a newspaper of general circulation in the City, as provided by City Charter.

This ordinance shall take effect as of the date of its passage, approval, and adoption.

PASSED AND APPROVED ON THE FIRST READING ON _____.

PASSED, APPROVED, AND ADOPTED ON THE SECOND AND FINAL READING
ON _____.

CITY OF IOWA COLONY, TEXAS

By: _____
MICHAEL BYRUM-BRATSEN, MAYOR

ATTEST:

KAYLEEN ROSSER, CITY SECRETARY