

WADENA COUNTY
ORDINANCE PROVIDING FOR THE REGULATION OF PUBLIC SWIMMING
POOLS

IN WADENA COUNTY

Ordinance #14

by and through

Wadena County Public Health Department

Revised 7-1-10



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ORDINANCE PROVIDING FOR THE REGULATION OF PUBLIC SWIMMING POOLS

The County Board of Wadena County adopts:

Section 1. STATE HEALTH DEPARTMENT RULES ADOPTED

This ordinance shall provide for the regulation and control of public swimming pools. Minnesota Department of Health Miscellaneous Environmental Health Rules pursuant to Minnesota Statutes 144.05, 144.12, 144.1222, 144.123; 145A.02; 157.01 and Minnesota Rules 4717.0150 to 4717.3975 relating to public swimming pools and all rules and regulations amendatory thereof are hereby adopted by Wadena County.

Section 2. PURPOSE

The purpose and intent of this ordinance is to provide a standard for the design, construction, operation and maintenance of public swimming pools so that the public health and safety will be minimized.

Section 3. DEFINITIONS

3.1 Scope The following definitions shall apply in the interpretation and enforce of this ordinance. parts 4717.0150 to 4717.3975.

3.2 Board means the Wadena County Board of Commissioners.

3.3 Commissioner of Health means the Minnesota Commissioner of Health.

3.4 Public Health Department means the Wadena County Public Health Department or the authorized representative.

3.5 Appeals Board shall be appointed by the Board. The members will consist of: two County Commissioners, the Public Health Department Medical Director, a member of the County Public Health Advisory Committee and an owner or operator of a licensed establishment recruited by the Public Health Department. The Appeals Board shall elect its own chair.

3.6 Operator means the individual designated by the owner as responsible to operate and maintain the public pool in compliance with ordinance.

3.7 Trained Operator means an individual who meets the requirements of part 4717.0650, subpart 5.

3.8 Owner means the person who owns the public pool and is responsible for compliance with the ordinance.

3.9 Person means any person, firm, partnership, association, corporation, limited liability company, governmental agency, club, or organization of any kind.

3.10-Pool means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use including special purpose pools and wading pools.

3.11 Private residential pool means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. A private residential pool is not a pool used as a part of a business.

3.12 Public pool has the meaning given in Minnesota Statutes, section 144.1222, sub. 4, paragraph (d).

3.13 Spa pool means a hot water pool intended for seated recreational use with a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term 'whirlpool.'

3.14 Special purpose pool means a pool intended to accommodate a use other than normal swimming, diving, or wading. A special purpose pool includes, but is not limited to, spa pools, pools used for water therapy, dedicated plunge pools, flume water slides, and wave pools.

3.15 Wading pool means any pool with a maximum depth of 24 inches or designed to be used exclusively for wading.

Section 4. LICENSURE

4.1 The Public Health Department is authorized to issue license for the operation of public swimming pools and such pools are required to be licensed prior to commencing operation in any calendar year. It shall be unlawful for any person to operate a public swimming pool within the jurisdiction of the Public Health Department who does not possess a valid license issued by the Public Health Department as required in this ordinance and the standards of the Public Health Department shall be entitled to receive and retain such a license.

4.2 Licenses issued pursuant to this ordinance expire on December 31 of each year. License renewal applications shall be filed prior to January 1 or the first day of operation in each calendar year. Licenses shall become overdue and subject to a penalty after January 31 or for a new public swimming pool 10 days prior to the opening date of such pool. Every person seeking to operate a public swimming pool shall make application in writing to the Public Health Department. Such application shall be provided by the Public Health Department.

4.3 If the Public Health Department should determine from the application that the health and safety of the public will be properly safeguarded, approval of the license may be given except for newly constructed or altered pool.

4.4 If the Public Health Department should determine from the application or subsequent inspection that the health and safety of the public in the pool will not be properly safeguarded, the Public Health Department may deny the application for licensure. Such applicant is entitled to a hearing before the Appeals Board as outlined in Section 6.4 of this ordinance.

4.5 The license is not transferable.

Section 5. PUBLIC POOL STANDARDS

5.1 The Standards for Public Pools are outlined in Minnesota Rules Chapter 4717 and the Abigail Taylor Pool Safety Act and Minnesota Statutes Chapter 144.1222. Wherein Minnesota Rules Chapter 4717 refers to the Commissioner, Commissioner shall mean the Wadena County Board and its designated agents.

Section 6. INSPECTION, COMPLIANCE, HEARINGS AND APPEALS

6.1 Inspection It shall be the duty of the Public Health Department to make an inspection every 12 months for each public swimming pool. Access to the pool must be provided to the Health Department for the purpose of making such inspections during normal operating hours. If, upon inspection any of the conditions listed in Minnesota Statute 144.05, and Minnesota Rule repealed-(4717.3800) use 4717.9070 exist, the pool shall be immediately closed when so ordered by the Public Health Department. If it is found that there is a failure to protect the health and safety of the public using the pool, a failure to comply with the pool regulations and standards prescribed by the Health Department, or for condition not listed as immediate closure, the Public Health Department shall give notice to the pool operator of such failure. This notice shall set forth the reason or reasons for failure. The pool operator shall be given a reasonable time after receiving said notice in which to correct such failure and to comply with the requirements and standards.

6.2 Suspension of License Licenses may be suspended temporarily by the Public Health Department at any time for failure by the holder to comply with the requirements of this ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this ordinance, the license upon service of the notice, is immediately suspended and that an opportunity for a hearing before the Appeals Panel will be provided if a written request for appeal is filed with the Public Health Department by the license holder.

Any person who license has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the license have been corrected, the Public Health Department shall make a reinspection. If the applicant is complying with the requirements of this ordinance the license shall be reinstated.

6.3 Revocation of license. For serious or repeated violations of any of the requirements of this ordinance the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided by the Public Health Department. Prior to such action, the Public Health Department shall notify the license holder in writing and advising that the license shall be permanently revoked at the end of a five (5) day period. A license may be suspended for cause pending its revocation or hearing relative thereto.

6.4 Appeals Any person affected by notice of suspension or revocation, or emergency order which has been issued and served as provided in this ordinance shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Public Health Department

written petition requesting such hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten days after the notice was served.

The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The chairman of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten day period if, in his or her judgment, a good and sufficient reason exists for such postponement. The Public Health Department shall give five (5) days advance notice of the hearing to be given to the petitioner or petitioners by mailing to the petitioner's last known address.

At such hearing, the petitioner, his agent or attorney shall be given an opportunity to be heard and to show cause why the notice of suspension or emergency order issued by the Public Health Department should be modified or withdrawn. The Public Health Department shall present a detailed, written report of the findings and decision orders to the Appeals Board at the time of the hearing.

After such hearing the Appeals Board shall sustain, modify, or withdraw the notice of suspension or emergency order, depending upon its findings as to whether the establishment is being operated in compliance with the provisions of this ordinance. A copy of the decisions of the Appeals Board shall be served by mail to the petitioner or petitioners last know address. Any person aggrieved by the decision of the Appeals Board may seek relief in court of competent jurisdiction as provided by the laws of the State.

The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the decision of the Public Health Department, shall be recorded and reduced to writing and entered as public record in the office of the Public Health Department. Such record shall include a copy of every notice, order or writing issued in connection with the matter.

Any notice served pursuant to the provisions of this ordinance shall automatically become final if written petition for a hearing is not filed with the health department within ten (10) days after the notice is served.

Section 7. CONSTRUCTION/SUBMISSION OF PLANS/SPECIFICATIONS

No swimming pool used or intended for use of the public or by any school, club, organization or institution shall be constructed, nor shall any such swimming pool, now or hereafter existing, used or intended for such use, be materially altered until complete plans and specifications therefore, together with such further information as the State Health Department may require, shall have submitted in duplicate and approved by the Minnesota Department of Health. After such plans have been approved by the State Health Department, no modifications affecting the sanitary or safety features thereof shall be made without approval of the State.

The pool and facilities shall be built in accordance with the plans as approved unless approval of changes has been given in writing by the State Health Department. The owner or his agent shall notify the Health Department at the time of completion of the pool to permit adequate inspection of the pool and related equipment. The pool shall not be placed in operation until such inspection shows compliance with the provisions of Minnesota Rules 4717.0100 to 4717.3900.

Section 8. FEES

The Board shall be empowered to set, revise or rescind and collect such fees as it deems necessary for the administration of this ordinance.

Section 9 THE MINNESOTA DEPARTMENT OF HEALTH

The requirements contained in this ordinance are intended to be comparable to the Minnesota Department of Health Standards and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends regulations or adopts a new ordinance, setting higher standards than the ones established in this ordinance, the standards set by the Minnesota Department of Health shall govern and will be considered as part of this ordinance.

Section 10. PENALTIES

11.1 **Administrative Penalties** Administrative penalties are used as a tool for orders compliance enforcement. See Administrative Penalties Policy and Fees.

11.2 **Criminal Penalties** Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of up to one thousand dollars (\$1,000.) and/or by imprisonment of ninety (90) days in jail. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

Section 11. EFFECTIVE DATE

45.1 **Repeal** This ordinance, effective July 1, 2010, hereby repeals and replaces in its entirety the Wadena County Pool Ordinance of 1-1-1993.

42.2 **Effective date** This ordinance shall be in full force and effect effective July 1, 2010.

Attest:

By:

 6/17/10
Charlene (Char) West Date
Wadena County Auditor/Treasurer

 6/17/10
Bill Stearns, Chair Date
Wadena County Board of Commissioners

Board of Commissioners
Resolution Dated 6/17/10

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SEP 01 2010
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