

MIAMI COUNTY ORDINANCE _____

An ordinance pertaining to public swimming pools, semi public pools and spas, requiring permits and permit fees for public swimming pools and spas, , providing for the fixing of penalties for violations of said ordinance, and the providing for incorporation by reference the following Indiana State Department of Health Swimming Pool Rule 410 IAC 6-2. et seq.,

Be it ordained by the Board of Commissioners of Miami County, State of Indiana, that:

Section A: Definitions

Air Gap: shall mean the unobstructed vertical distance through atmosphere between the water supply inlet and the flood level of the rim of the receiving unit.

Bather: shall mean any person using a pool facility for the purpose of recreation, relaxation, therapy or related activities.

Bather Load: shall mean the maximum number of bathers allowed within a pool structure using the following formulas:

(a.) Indoor swimming pool = water surface area divided by twenty four (24) sq. ft. per bather.

(b.) Outdoor swimming pool = water surface area divided by twenty (20) sq. ft. per bather.

(c.) Spa = water surface area divided by ten (10) sq. ft. per bather.

(d.) **Health Department:** means the Miami County Health Department.

Breakpoint chlorination: shall mean the point in a rising chlorine residual at which the concentration of free or available chlorine becomes great enough to completely oxidize all organic matter and ammonia compounds (chloramines) in a pool.

Diving pool: shall mean a pool designed and constructed primarily for diving and does

not have a shallow end.

Health Officer: means the medical doctor serving as the executive officer of the Miami County Health Department or any authorized representative.

Imminent Health Hazard: shall mean any event, circumstance or situation, which in the discretion of the Health Officer or his authorized agent, presents a serious and present health or safety risk to a person or to the public at large.

Law: shall mean applicable, state, and federal statutes, regulations, and local ordinances.

Owner or Authorized Agent: shall mean any individual. Association, company, corporation, partnership, division of government or other group acting as a unit, trust, estate, agent or legal representative thereof who shall hold title to the real-estate upon which the pool is placed, or who shall be legally responsible for the operations of the pool, or who shall be so named as the owner on the pool permit application.

Permit: means the document issued by the Health Department which authorizes a person to operate a public swimming pool or spa.

Pool: shall mean a structure, basin, chamber or tank containing an artificial body of water designed for swimming, diving, wading, or other recreational use

Public pool:, shall mean any pool, other than those pools defined as a semi-public pool, which is intended to be used for swimming or bathing and is operated by a concessionaire, owner, lessee, operator, or licensee, regardless of whether a fee is charged for use. Nothing in this article shall be construed as applying to any pool, constructed at a one (1) or two (2) family dwelling, and maintained by any individual for the sole use of the household and house guest.

Regulatory authority: shall mean the local, state or federal enforcement body or authorized representative having jurisdiction over a public or semi-public pool.

Repeat violation: shall mean a violation that has been observed and recorded on the previous inspection form and the violation was also observed and recorded again on the consecutive inspection report.

Semi-public pool: shall mean any pool that is intended to be used for swimming or bathing and is operated solely for and in conjunction with:

- (a) schools, universities and colleges
- (b) hotels, motels, apartments, condominiums, bed and breakfasts, or similar lodgings
- (c) camps or mobile home parks; or
- (d) memberships clubs or associations
- (e) therapeutic pools; rehabilitation & health care facilities

Spa: shall mean a pool designed for recreational and/or therapeutic use, which is not drained, cleaned, and refilled after each use. The term may include, but is not limited to:

- (a) hydro jet circulation;
- (b) hot water;
- (c) cold water;
- (d) mineral baths;
- (e) air induction systems; or
- (f) any combination thereof

Unsatisfactory water sample: shall mean a water sample that contains more than two hundred (200) bacteria colonies per milliliter as determined by the heterotrophic thirty-five (35) degree Centigrade plate count, a test positive (confirmed test) for coli form organisms in any of the five (5) to ten (10) milliliter portions of a sample when the

multiple tube fermentation tube test is used, a test positive for more than one (1) coli form organism per fifty (50) milliliters when the membrane filter test is used, or the presence of any coli form when the one hundred (100) milliliter presence/absence test is used.

Written Order: A written letter of abatement generated by the regulatory authority and signed by the Regulatory Authority, that is served to the operator of a public swimming pool or a semi public swimming pool or spa that has been found in violation of the provisions of this ordinance, and lists those violations and mandates a specific time by which the abatement must occur.

Section B: Permits

Permit: It shall be unlawful for any person to operate a retail public swimming pool, a semi-public pool or a public spa in Miami County who does not possess a valid permit from the Health Department. Such permit shall be posted in a conspicuous place in plain view of the public.

Only persons who comply with the applicable requirements as specified by the Indiana State Department of Health rules incorporated herein by reference shall be entitled to receive and retain such a permit.

A annual permit for a public swimming pool, a semi-public pool or a public spa shall be for a term of one (1) year beginning May 1, and expiring April 30, of the following year and shall be renewed annually. The seasonal permit for a public swimming pool, a semi-public pool or a public spa shall be for any pool that will be operated less than six (6) months in the same calendar year.

A permit may be issued to any person upon completion of steps A-D.

- A. An application is reviewed and approved by the Health Department for a public swimming pool, a semi-public pool or a public spa.
- B. A pre-opening inspection is completed by the Health Department for new or substantially remodeled public swimming pool, a semi-public pool or a public spa.
- C. The public swimming pool, a semi-public pool or a public spa is in substantial compliance with all applicable requirements of 410 IAC 6-2.1
- D. Appropriate fees are paid.

Section C: Permit Fee

1. See attachment 1: Fee schedule for current rates. Note that a late fee will be assessed on any annual public swimming pool, a semi-public pool or a public spa permit not renewed within thirty (30) days following expiration date. Closure of the public swimming pool, a semi-public pool or a public spa shall be initiated for any public swimming pool, a semi-public pool or a public spa that has not been renewed within thirty-one (31) days following the expiration date.
2. **Permit and Fee Exception:** No permit fee shall be paid by an organization that is exempt from the Indiana gross income tax.

Section D: Minimum Requirements for Pool Operations

All public swimming pool, a semi-public pool or a public spa shall comply with at least the minimum requirements specified by the Indiana State Department of Health in Rules 410 IAC 6-2.1 and all addenda. Two (2) copies of which are on file in the office of the Clerk of Miami County, Peru, Indiana, for public inspection.

Section E: Minimum requirements

All public, semi-public pools and public spas shall comply with the least minimum requirements specified by 675 IAC 20-1, Swimming pool code, and 410 IAC 6-2.1, Public and Semi-Public Pools, and this ordinance.

Section F: Inspection of public swimming pool, a semi-public pool or a public spa

1. Inspections: Each public swimming pool, a semi-public pool or a public spa for which a permit is required under the provisions of this ordinance may be inspected at any time during its normal operational hours. Frequency of inspections are to be based on past compliance.

2. Procedure when Violations are noted: If, during the inspection of any public swimming pool, a semi-public pool or a public spa shall the authorized representative discovers the violation of any of the requirements in Section D, of this ordinance, he/she shall list on the report section of the inspection form such violations, and serve a copy of the report to the operator or the person in charge and fix a time within which the operator or person in charge of the public swimming pool, a semi-public pool or a public spa shall abate and remedy such violations. A copy of the report shall be kept on record at the Health Department.

3. Final Inspection: If, upon a subsequent inspection of a public swimming pool, a semi-public pool or a public spa the regulatory authority finds that a public swimming pool, a semi-public pool or a public spa is violating any provisions of this ordinance which were found in violation during the pervious inspection, and concerning which a written order was issued the Regulatory Authority may issue a fine for each violation of this ordinance.

4. Suspension of Permit: Any permit issued under this ordinance may be temporarily suspended by the Regulatory Authority without notice or hearing for any of the following

reasons provided that any suspension order shall be issued by the Regulatory Authority in writing and served upon the permittee by leaving a copy at his/her usual place of business by delivery or registered or Certified Mail:

- a. Failure to meet bacteriological requirements of section 31(f) of rule 410 IAC 6-2.1.
- b. Failure to meet disinfectant concentrations of section 30(b) of rule 410 IAC 6-2.1.
- c. Failure to meet the water clarity requirements of section 31(a) of rule 410 IAC 6-2.1.
- d. The grate on the main drain is missing or broken
- e. Failure to meet lifeguard requirements of section 35 of rule 410 IAC 6-2.1.
- f. A pump, filter, or disinfectant feeder is nonoperational
- g. A nonsolid fecal accident
- h. The spa water temperature exceeds one hundred four (104) degrees Fahrenheit
- i. An imminent health hazard exists

5.Reinstatement of Permit: Any person whose permit has been suspended may, at any time, make application to the Regulatory Authority for the reinstatement of his/her permit. The applicant shall submit written documentation with explanation why the permit should be reinstated and provide specific measures to be followed which will prevent the circumstances of suspension from recurring.

6.Revocation of Permit: The Miami County Health Board, upon a hearing, if the permittee should fail to show cause may revoke the permit and promptly give written notice of the action to the permittee. The Regulatory Authority shall maintain a permanent record of the proceedings filed in the office of the Health Department.

Upon failure of any person maintaining or operating a public swimming pool, a semi-

public pool or public spa, to comply with any order of the regulatory authority, it shall be the duty of the Regulatory Authority summarily to revoke the permit of the person and public swimming pool, a semi-public pool or a public spa and to forbid the further operations therein.

Section G: Authority to Inspect and to Copy Records

The person in charge of a public swimming pool, a semi-public pool or a public spa shall, upon request of the regulatory authority, allow the regulatory authority access to all parts of the public swimming pool, a semi-public pool or public spa and shall permit the regulatory authority to collect evidence and/or exhibits and to copy any or all records relative to the enforcement of this ordinance.

Section H. Approval of Plans

All public swimming pool, a semi-public pool or a public spa, which are hereafter constructed or altered, shall conform to the applicable requirements of the Indiana State Department of Health and by the Indiana Department of Fire and Building Services. Properly prepared plans and specifications shall be submitted for approval to the Health Department at least thirty (30) days prior to initiating construction. A stop work order may be issued if plans have not been submitted for approval to the Health Department at least 30 days prior to the initiation to construction.

Section I: Penalties

The Regulatory Authority may issue a fine for each repeated violation of this ordinance, rule 410 IAC 6-2.1 For the first offense a fine not to exceed \$50 unless extreme circumstances deem a greater fine not to exceed \$2500.00. For the second offense a fine not to exceed \$500 unless extreme circumstances deem a greater fine not to exceed \$2500. For the third and more offenses a

fine may be issued not in excess of \$2,500.00.

Section J: Appeal

- a.** Any person aggrieved by any final order of the Health Department shall be entitled to a review of the final order before the Board by filing a written request therefore with the Secretary of the Board within fifteen(15) days after such final order is issued.
- b.** Upon the Health Department=s receipt of such request, the Board shall hear the matter de novo in an open hearing after at least ten (10) days written notice of the time, place and nature thereof. (The Health Department and appellant may agree to a shorter period of time, if requested by either party.) The notice shall be issued by the Secretary of the Board to the Health Department and the person filing the request.
- c.** The notice of hearing shall be served upon the appellant by leaving or mailing by Certified Mail the notice to the address listed on the permit application as the appellant=s mailing address or such other address as the appellant shall designate in writing to the Secretary of the Board.
- d.** At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Department; provided, that upon written request by the appellant or the Health Department, the Board shall cause the proceedings before it to be recorded by a reporter employed for such purpose, and the same, together with all papers and documents filed therein.

Section K: Unconstitutionally Clause

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance should not be affected thereby.

Section L: Date of Effect

This ordinance shall be in full force and effect July 1, 2007 after its adoption and publication as provided by law.

Attachment 1: Annual Fee Schedule

A annual permit fee of \$25.00 for each public swimming pool, a semi-public pool or a public spa pool, wading pool. A seasonal permit fee of \$15 for each swimming pool, a semi-public pool or a public spa. A late fee of \$25.00 assessed on any permit not obtained prior to opening

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF MIAMI COUNTY,
STATE OF INDIANA ON THIS _____ DAY OF _____ 2007.

CRAIG BOYER

GREGORY DEEDS

GARY HAWLEY

ATTEST:

Brenda Weaver, Auditor