

DATE July 6, 2010

DEPARTMENT Public Health & Environment

MOTION  
BY COMMISSIONER Weik

SECONDED BY  
COMMISSIONER Peterson

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**RESOLUTION ADOPTING WASHINGTON COUNTY  
PUBLIC POOL ORDINANCE NO. 183**

**WHEREAS**, the Minnesota Local Public Health Act MINN. STAT. CHAPT. 145A., imposes upon the counties the responsibility of protecting and promoting the health of its citizens through the prevention of disease, injury, disability and preventable death, and

**WHEREAS**, the counties are to advance this mandate through the promotion of effective coordination and use of community resources and by the extension of health services into the community, and

**WHEREAS**, MINN. STAT. § 145A.03 requires counties to undertake the responsibility of a board of health or establish a board of health; and

**WHEREAS**, Washington County Department of Public Health and Environment is the county agency given the responsibility by the Washington County Board of Health to administer the County's statutory mandate; and

**WHEREAS**, MINN. STAT. § 145A.04 authorizes counties to require laws, regulation and ordinances attendant to the local Board of Health; and

**WHEREAS**, MINN. STAT. § 145A.05 authorizes county boards to adopt ordinances to regulate actual or potential threats of public health consistent with the Minnesota Local Public Health Act; and

**WHEREAS**, the Minnesota Department of Health currently regulates and has enforcement authority over public pools; and

**WHEREAS**, the Minnesota Department of Health wishes to delegate this oversight authority to Washington County through a delegation agreement; and

**WHEREAS**, on July 6, 2010, the Washington County Board of Commissioners conducted a public hearing pursuant to MINN. STAT. § 375.51, to adopt the Washington County Public Pool Ordinance, Ordinance No 183.

**NOW, THEREFORE, BE IT RESOLVED**, that the Washington County Board of Commissioners hereby adopts the Washington County Public Pool Ordinance, Ordinance No. 183.

**BE IT FURTHER RESOLVED**, that the Washington County Public Pool Ordinance attached hereto shall be effective upon and after the publication of this ordinance according to law and the execution of a delegation agreement.

ATTEST:

*James R. Schuy*  
\_\_\_\_\_  
COUNTY ADMINISTRATOR

*Will R. ...*  
\_\_\_\_\_  
CHAIRMAN, COUNTY BOARD

	YES	NO
HEGBERG	<u>  x  </u>	_____
KRIESEL	<u>  x  </u>	_____
PETERSON	<u>  x  </u>	_____
PULKRABEK	<u>  x  </u>	_____
WEIK	<u>  x  </u>	_____

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**Public Pool Ordinance**

## for Washington County

### Section 1 Purpose and Authority

- 1.1 The purpose of this Ordinance is to establish standards and authority to protect the public health, safety, and general welfare of the people of Washington County pursuant to powers granted under Minnesota Statutes, Chapters 144.1222, 145A, 157, and 375, as now constituted and from time to time amended.
- 1.2 This Ordinance establishes minimum standards, as defined in Minnesota Rules, parts 4717.0150 to 4717.3970, Minnesota Statutes, section 144.1222 and this Ordinance, for the design, construction, operation, and maintenance of Public Pools located in Washington County so that health and safety hazards will be minimized. Whenever, and if, this Ordinance conflicts with other applicable laws, regulations and ordinances, the most restrictive shall prevail.
- 1.3 A Public Pool that meets the definition of a Public Water Supply must comply with Minnesota Rules, Chapter 4720 and the Safe Drinking Water Act (Minnesota Statutes, sections 144.381 to 144.387).

### Section 2 Scope

- 2.1 This Ordinance shall be applicable to all Public Pools, as defined in Minnesota Rules, parts 4717.0150 to 4717.3970 and Minnesota Statutes, section 144.1222, including all facilities incident thereto, which are located in Washington County.

### Section 3 Administration

- 3.1 This Ordinance shall be administered by the Washington County Department of Public Health and Environment, hereinafter referred to as the “Department” or the “Health Authority.”
- 3.2 All of the provisions of the Washington County Administrative Ordinance shall apply as if fully set forth herein.

### Section 4 Definitions

- 4.1 For the purpose of this Ordinance, definitions of words, phrases and terms used in this Ordinance shall be those set forth in Minnesota Rules, parts 4717.0150 to 4717.3970 and Minnesota Statutes, section 144.1222. The following words shall have the following meanings:
  - (1) **Approved** shall mean acceptable to the Health Authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

- (2) **Change or Transfer of Ownership** shall mean a legal transaction whereby the ownership of a Public Pool is changed from one Person to another Person. This transaction can be by sale, exchange, repossession or other legal means.
- (3) **County** shall mean Washington County.
- (4) **County Board** shall mean the Washington County Board of Commissioners.
- (6) **Department** shall mean the Washington County Department of Public Health and Environment and shall be synonymous with the term “Health Authority.”
- (7) **Health Authority** shall mean the Washington County Department of Public Health and Environment, its Director or other designated agent. The term Health Authority is synonymous with “Department.”
- (8) **Imminent Health Hazard** shall mean a significant threat or danger to health that exists when there is evidence to show that a product, practice, circumstance or event creates a situation that requires immediate correction or cessation of operation.
- (9) **Licensee** shall mean the Person who has been given the authority by the issuance of a license by the County to establish, operate, manage, and/or maintain a facility or activity regulated by County ordinances or as otherwise designated in the County Ordinance.
- (10) **Operator** shall mean the individual designated by the owner as responsible to operate and maintain the Public Pool.
- (11) **Owner** shall mean the Person who owns the Public Pool and is responsible for compliance with Minnesota Rules, parts 4717.0150 to 4717.3975 and Minnesota Statute, Chapter 144.1222.
- (12) **Person** shall mean an individual, corporation, firm, partnership, association, limited liability company, government agency, company, club or organization of any kind.
- (13) **Private Residential Pool** shall mean 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 part of a business.
- (14) **Public Pool** shall mean. any pool other than a private residential pool, that is:
  - (1) open to the public generally, whether for a fee or free of charge;
  - (2) open exclusively to members of an organization and their guests;
  - (3) open to residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area;
  - (4) open to patrons of a hotel or

lodging or other public accommodation facility; or (5) operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, club, condominium, manufactured home park, or political subdivision with the exception of swimming pools at family day care homes licensed under Minnesota Statutes, section 245A.14, subdivision 11, paragraph (a).

- (15) **Public Water Supply** shall have the meaning given to “public water system” in the Federal Safe Drinking Water Act.
- (16) **Public Water System** shall mean a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A public water system is either a “community water system” or a “non-community water system.”
- (17) **Seasonal** shall mean closed five (5) consecutive months of the year or more.
- (18) **Spa Pool** shall mean 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.”
- (19) **Special Purpose Pool** shall mean 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.
- (20) **Trained Operator** means an individual who meets the requirements of Minnesota Rules, part 4717.0650, subpart 5.
- (21) **Variance** shall mean a modification or variation to the requirements of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement this Ordinance would cause unnecessary hardship.
- (22) **Wading Pool** shall mean any pool with a maximum depth of twenty four (24) inches used or designed to be used exclusively for wading.

## **Section 5 Licensing and Fees**

- 5.1** No Person shall operate a Public Pool, as defined in Minnesota Rules, part 4717.0250, Minnesota Statutes, section 144.1222, or this Ordinance, unless a license for the current year of the applicable type shall have been obtained pursuant to this Ordinance from the

Health Authority.

- 5.2** Only a Person who complies with the requirements of this Ordinance shall be entitled to receive a license. Licenses shall not be transferable as to Person or place. The original copy of all licenses obtained for a Public Pool shall be conspicuously located for public inspection.
- 5.3** Fees for licenses and other services shall be those established by the County Board. Additional fees may be charged for each additional service which is separate, distinct or unique as determined by the Health Authority.
- 5.4** Public Pools that Change Ownership or otherwise begin new operations of non-seasonal pools at various times during the year shall have their license fees prorated as follows:
- (1) Seventy-five percent (75%) of the total required license fees for establishments beginning operations on or after April 1, but before July 1;
  - (2) Fifty percent (50%) of the total required license fees for establishments beginning operations on or after July 1, but before October 1;
  - (3) Twenty-five percent (25%) of the total required license fees for establishments beginning operations on or after October 1, but on or before December 31.
- This proration of license fees is applicable only to the total required license fee. It does not include any required plan review fees or other fees which may be applicable. Proration of fees does not apply to Public Pools that operate on a Seasonal basis.
- 5.5** Licenses are valid through December 31 annually. License renewal applications shall be received by the Health Authority by December 1 of each year.
- 5.6** The application for licenses shall be made on forms furnished by the Health Authority and shall set forth the general nature of the business, the location, and other information as the Health Authority may require. The issuance of such licenses and their maintenance, termination and administration shall be in accordance with and subject to all conditions of the Washington County Administrative Ordinance relative to the general requirements for licenses in Washington County.
- 5.7** Late penalty fees for Public Pools shall be assessed, as described in the Administrative Ordinance.
- 5.8** An existing Public Pool that has been out of business or closed for more than thirty (30) calendar days is considered a new establishment when re-opening with the same ownership and is subject to a pre-licensing inspection.
- 5.9** A license granted by the Department means that the requirements of the Department for conducting the licensed business have been met. There may be additional legal requirements, including requirements from other governmental entities that must be met in order to conduct the business. The granting of a license by the Department does not

exempt the business from any additional legal requirements, nor does it mean those requirements have been met.

## **Section 6 Inspections**

- 6.1** The Health Authority shall inspect licensed Public Pools as frequently as necessary to ensure compliance with this Ordinance, but not less often than annually.
- 6.2** Pursuant to Minnesota Rules, part 4717.0375, the Health Authority shall have the right to enter and have access to the Public Pool at any time during the conduct of business. No persons shall interfere with or hinder the Health Authority in the performance of its duties, or refuse to permit the Health Authority to make such inspections.
- 6.3** The Health Authority shall inspect each Public Pool prior to issuing a license for a new establishment or Change of Ownership. A license shall not be issued until the corrections required by the State Commissioner of Health or the Health Authority as a result of the pre-licensing inspection have been made to the satisfaction of the Health Authority.
- 6.4** Each inspection report may be posted by the Health Authority, not in a public area, and such inspection report shall not be defaced or removed by any person except the Health Authority. The posting of the inspection report shall constitute service of an official notification by the Health Authority. The Health Authority may, in lieu of posting such reports, deliver it in person to the Licensee or his authorized agent, or deliver it by certified or registered mail. A copy of the inspection report shall be filed with the records of the Health Authority with the name of the operator and owner.
- 6.5** All Licensees, owners or operators of Public Pools having a report posted or having received a report giving notification of one or more violations of this Ordinance shall correct or remove each violation in the length of time determined by the Health Authority. The length of time for the correction or removal of each such violation shall be noted on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this Ordinance.

## **Section 7 Standards for Health and Safety**

- 7.1** Minnesota Rules, Chapter 4717, except parts 4717.0310 and 4717.0450; Minnesota Statutes, section 144.1222, and any future revisions thereof, are hereby adopted by reference and made a part of this Ordinance.
- 7.2** The above adopted rules are hereby amended as follows:
  - (1) Whenever the terms “state board of health” or “commissioners of health” appear in these adopted rules, they shall mean the “Health Authority.”
- 7.3** A Public Pool that meets the definition of a Public Water Supply must comply with

Minnesota Rules, Chapter 4720 and the Safe Drinking Water Act (Minnesota Statutes, sections 144.381 to 144.387).

- 7.4** Whenever a Public Pool which would be licensed under the provisions of this Ordinance is constructed or remodeled, properly prepared plans and specifications for each construction or remodeling shall be submitted to the State Commissioner of Health and shall be reviewed and approved by the State Commissioner of Health prior to the time that construction or remodeling is begun. The Public Pool shall be constructed and finished in accordance with the approved plans.
- 7.5** Public Pools with a food establishment, lodging establishment, Manufactured Home Park, Recreational Camping Area, or Youth Camp, or Subsurface Sewage Treatment System shall also comply with the Washington County Food Code Ordinance, the Lodging Ordinance, the Manufactured Home Parks, Recreational Camping Areas and Youth Camp Ordinance, and the Subsurface Sewage Treatment System Ordinance.

### **Section 8 Variances**

- 8.1** No variances for Public Pools will be issued by the Health Authority.
- 8.2** Whenever a Public Pool which is or would be licensed under the provisions of this Ordinance is requesting a variance, the request shall be submitted to the State Commissioner of Health and shall be reviewed and approved by the State Commissioner of Health as defined in Minnesota Rules, part 4717.7000.

### **Section 9 Enforcement**

- 9.1** Any Person who violates a provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- 9.2** In addition to any other remedy provided by law, in the event of a violation or a threat of violation of this Ordinance, the Health Authority may take appropriate action to enforce this ordinance, including application of injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.
- 9.3** The Health Authority may, in lieu of, or in addition to issuance of a citation, order the Licensee, owner or operator to appear for an informal hearing at the Washington County Government Center, located at 14949 62<sup>nd</sup> Street North, Stillwater, Minnesota, at a time and date prescribe by the Health Authority. The Licensee, owner or operator must be given written notice at least twenty four (24) hours in advance of the informal hearing and such notice shall specify the Ordinance violations to be discussed. Failure to appear shall constitute a violation of this Ordinance.
- 9.4** Citations may be issued by the Health Authority and the Health Authority may suspend,

summary suspend and revoke licenses in accordance with the Washington County Administrative Ordinance.

#### **Section 10 Severability**

- 10.1** If any provision or application of any provision of this Ordinance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance.

#### **Section 11 Effective Date**

- 11.1** This Ordinance shall be effective upon passage by the County Board and publication according to law.