

LAKE COUNTY PUBLIC SWIMMING POOL ORDINANCE # 21

2011

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OFFICE OF THE
REGISTRAR OF TITLES
LAKE COUNTY, MINNESOTA

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ERICA KOSKI
REGISTRAR OF TITLES

BY Erica Koski Deputy

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OFFICE OF THE
COUNTY RECORDER
LAKE COUNTY, MINNESOTA

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ERICA KOSKI
LAKE COUNTY RECORDER

BY Roguel Mae Deputy

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INDEX

SECTION I – PURPOSE

SECTION II – SCOPE

SECTION III – AUTHORITY

SECTION IV – DEFINITIONS

SECTION V – ADMINISTRATION

SECTION VI - ADOPTION OF PUBLIC POOL STANDARDS

SECTION VII - PLAN REVIEW OF FUTURE CONSTRUCTION

SECTION VIII - COMPLIANCE PROCEDURES

SECTION IX - APPEALS BOARD

SECTION X – SEVERABILITY

SECTION XI - MINNESOTA DEPARTMENT OF HEALTH

SECTION XII – PENALTIES

SECTION XIII - ADOPTION OF ORDINANCE

SECTION XIV - EFFECTIVE DATE

An Ordinance Providing for the Licensing and Inspection of public pools; regulating their design, construction, operation and maintenance and providing for the enforcement of this ordinance and the fixing of penalties throughout the entirety of Lake County, thereof be and thereby is established as follows:

This ordinance shall be applicable to all public pools as defined in Minnesota Rules Chapter 4717.

The County Board of Lake County pursuant to Minn. Stat. 145A.05, Subd. 8 ordains:

SECTION I - PURPOSE

The purpose of this ordinance is to establish standards for all public swimming pools/spas and to protect the health, safety and general welfare of the people of Lake County, including the following general objectives:

- 1) Provide a minimum standard for the design, construction, operation and maintenance of public swimming pools/spas;
- 2) Correct and prevent conditions that may adversely affect persons utilizing public swimming pools/spas; and
- 3) Meet consumer expectations for the quality and safety of public swimming pools/spas.

SECTION II - SCOPE

This ordinance shall provide for the licensing and inspection of all public swimming pools/spas; regulation of the design, construction, operation and maintenance of such pools; and the enforcement of violations of this ordinance.

This ordinance shall be applicable to all public swimming pools as defined in Minnesota Rules Chapter 4717.0100-4717.3975 and 144.1222.

SECTION III - AUTHORITY

This ordinance is enacted pursuant to Minnesota Statutes Chapter 157, which establishes authority for the State to license public pools and Chapter 145A, Section 145A.05, which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under the provisions of Section 145A.05 to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.

SECTION IV - DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this ordinance.

- 4.1 Board shall mean the Lake County Board of Commissioners acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.
- 4.2 Authority shall mean the Lake County Board of Commissioners and Lake County the Environmental Health Department or its agent.

- 4.3 License shall mean a new or renewal license issued to the person, firm or corporation operating the food and beverage service.
- 4.4 Person shall include an individual, partnership, corporation, association, or other legal entity.
- 4.5 Approved shall mean acceptable to the Environmental Health Department following its determination as to conformity with departmental standards and established public health practices
- 4.6 Environmental Health Department shall mean the Environmental Health Department.
- 4.7 Appeals Board shall mean a representative from the Lake County Board of Commissioners or a designated appointee, Human Services Director, and Public Health Supervisor
- 4.8 “Public Pool” shall mean any pool, spa, hot tub, wading pool and water park 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 lodging establishments as defined in the Lake County Lodging Ordinance #10 or other public accommodation facility; (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 section 245A.14, subdivision 11, paragraph (a).

SECTION V – ADMINISTRATION

The Environmental Health Department shall administer and interpret the provisions of this Ordinance. In addition to the duties set forth herein, the Environmental Health Department shall maintain adequate files and records relating to all licenses or permits issued, inspections made, work approved and other official actions.

The Environmental Health Department shall have all powers necessary to administer and enforce the provisions of this Ordinance. In addition to the other powers set forth herein, and without limitation, the Environmental Health Department shall be empowered to do the following:

- A. Prepare reports and recommendations regarding any additional measures that he/she deems necessary to affect the purpose of this Ordinance.
- B. Obtain assistance and cooperation from other State and local health, legal and law enforcement officials in the administration and enforcement of this Ordinance.
- C. Cooperate with local and State personnel in the enforcement of this Ordinance and State regulations, rules and requirements relating to food and beverage establishments.
- D. Arrange for the enforcement of any and all rules, orders, permits and other requirements established herein or issued pursuant to this Ordinance.

- E. Enter upon the premises of any lodging establishment at any reasonable time for the purpose of administrating and enforcing this Ordinance.
- F. The Environmental Health Department may impose additional requirements to protect against health hazards related to the conduct of their operation.
- G. Interpret the provisions and intent of this Ordinance as may be necessary from time to time.

SECTION VI - ADOPTION OF PUBLIC POOL STANDARDS

The standards for Public Pools outlined in Minnesota Rules Chapter 4717 and the Abigail Taylor Pool Safety Act; Minnesota Statutes Chapter 144.1222 are hereby incorporated in and made part of this ordinance. Wherein Minnesota Rules Chapter 4717 refers to the Commissioner, Commissioner shall mean the Lake County Board of Commissioners and its designated Environmental Health Department.

SECTION VII - PLAN REVIEW OF FUTURE CONSTRUCTION

General. When a public pool in Lake County licensed or to be licensed under the provisions of Minnesota Rules Chapter 4717 is constructed, installed or materially altered, complete plans and specifications shall be submitted to the Minnesota Department of Health as specified in Minnesota Rules 4717.0450, along with the required fee.

SECTION VIII - COMPLIANCE PROCEDURES

- 8.1 Licenses needed. It shall be unlawful for any person to operate a public pool within Lake County who does not possess a valid license issued to them by the Environmental Health Department as required by this ordinance. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one establishment, person or location to another establishment, person or location. All licenses expire as of December 31st.
- 8.2 Application for License
 - A. Any person desiring to operate a public pool shall make written application for a license on forms provided by the Environmental Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation, the location, as well as the signature of the applicant or applicants. Each application for a license, together with the appropriate license fee as described herein shall be submitted to the Environmental Health Department not later than January 31st each year, following expiration of the previous year's license. In the case of a newly constructed pool, a pre-opening inspection must be arranged through the Environmental Health Department ten (10) days prior to the opening date of such pool. Any person who operates a public pool without submitting a license application and appropriate fee shall be deemed to have violated this ordinance and shall be subject to prosecution as provided for in this ordinance.
 - B. Proprietors of any public pool shall pay an annual license fee at a rate specified by resolution of the Lake County Board of Commissioners. This annual license fee may be adjusted from time to time as the Board shall deem appropriate. A penalty fee at a rate

specified by Board resolution shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Environmental Health Department office by the dates specified on the application. Refer to Appendix A.

8.3 Inspection and correction

- A. Pursuant to Minnesota Rules, Chapter 4717.0375, the Environmental Health Department 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 Environmental Health Department in the performance of its duties, or refuse to permit the Environmental Health Department to make such inspections.
- B. The person operating a public pool shall, upon request of the Environmental Health Department and after proper identification, permit access to all parts of the pool at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with the provisions of this ordinance.
- C. When any of the conditions in items "A to E" are found, a public pool must be immediately closed to use when so ordered by the Environmental Health Department. The owner of the pool or the owner's agent must place a sign at the entrance to the pool indicating that the pool is closed. The pool must remain closed until the condition is corrected and approval to reopen is granted by the Environmental Health Department. A pool must be closed when:
 - 1) the units of lifesaving equipment specified in part 4717.1450 are not provided;
 - 2) the water clarity standard specified in part 4717.1750, subpart 7, is not met;
 - 3) the disinfection residual specified in part 4717.1750 subpart 3, is not met;
 - 4) the pool has been constructed or physically altered without approval of plans as required by part 4717.0450; or
 - 5) all drain covers are not properly secured using the screw or attachment recommended by the manufacturer
 - 6) there is any condition that endangers the health or safety of the public.
- D. Whenever an inspection of a public pool is made, the findings of fact shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending litigations.
- E. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

8.4 Suspension of license

- A. Licenses may be suspended temporarily by the Environmental 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, that license holder or operator may be notified in form of suspension that the license upon service of notice is immediately

suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within ten (10) days with the Environmental Health Department by the license holder.

B. Any person whose license or permit has been suspended may at any time make application for a re-inspection 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 their opinion the condition(s) causing suspension of the license has/have been corrected, the Environmental Health Department shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance and MN Rules Chapter 4717, the license shall be reinstated.

8.5 Revocation of license. For serious or repeated violations of any of the requirements of this ordinance, MN Rules Chapter 4717 or Minnesota Statutes Chapter 144.1222, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, the Environmental Health Department shall notify the license holder in writing with a form of suspension order, advising that the license shall be permanently revoked at the end of a five (5) day period.

SECTION IX - APPEALS BOARD

9.1 Request for Hearing. Any person affected by a notice of closure, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Environmental Health Department, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) days after the notice was served.

9.2 Date of Hearing. The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period.

9.3 Notice of Hearing. The Environmental Health Department shall cause five (5) days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner or petitioner's last known address.

9.4 Proceedings. At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of closure, suspension, or revocation issued by the Environmental Health Department should be modified or withdrawn. The Environmental Health Department shall present a detailed written statement of their findings of fact and recommendation(s) to the Appeals Board at the time of the hearing.

9.5 Decisions of the Appeals Board. The Appeals Board, within three (3) days after such hearing, shall sustain, modify or withdraw the notice of closure, suspension, or revocation depending upon its findings of fact. A copy of the decision of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief there from in any court of competent jurisdiction as provided by the laws of the state.

9.6 Record of Proceedings. The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings of fact and the recommendation(s) of the

Environmental Health Department shall be recorded and reduced to writing and entered as a public record in the office of the County Attorney's office. Such record shall include a copy of every notice or order or writing issued in connection with the matter.

- 9.7 Notices not appealed. Any notice served pursuant to the provisions of this ordinance shall automatically become final if a written petition for a hearing is not filed with the Environmental Health Department within ten (10) days after the notice is served.

SECTION X - SEVERABILITY

The provisions of this ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase or portion of this ordinance be declared invalid for any reason, the remainder of said ordinance shall not be affected thereby.

SECTION XI - MINNESOTA DEPARTMENT OF HEALTH

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

SECTION XII - 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 not to exceed one thousand dollars (\$1000) or by imprisonment not to exceed ninety (90) days or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

In the event of a violation or a threat of violation of this Ordinance, the County Attorney 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.

EFFECTUATION OF ORDINANCE # 21

Section XIII This Ordinance is adopted July 26, 2011.

Section XIV This Ordinance shall take effect and be in full force on August 19, 2011

Recommended by the Lake County Public Health Department after a public hearing on July 26, 2011 and passed by the Lake County Board of Commissioners this 26th day of July, 2011.

9-6-2011

DATE



Derrick Goutermont, Chairman

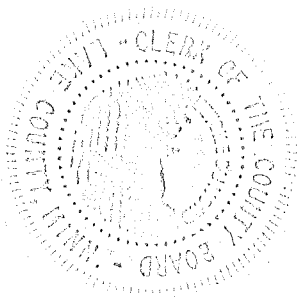
Lake County Board of Commissioners

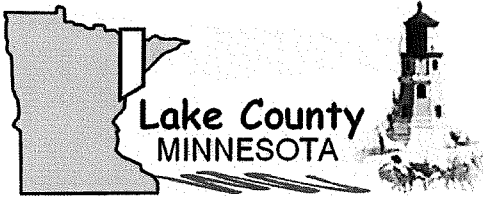
9-6-2011

DATE



Laurel Buchanan, Clerk of the Board





Board of Commissioners
Lake County Courthouse
601 Third Avenue
Two Harbors, MN 55616

Phone: 218-834-8320 Fax: 218-834-8360
Website: co.lake.mn.us

First District - Thomas Clifford, M.D.
Second District - Derrick Goutermont
Third District - Brad Jones
Fourth District - Paul Bergman
Fifth District - Rich Sve

RESOLUTION NO. 11072607

**ADOPTION OF LAKE COUNTY PUBLIC HEALTH
PUBLIC SWIMMING POOLS ORDINANCE #21**

WHEREAS, Lake County Public Health drafted a new **PUBLIC HEALTH ORDINANCE #21 - PUBLIC SWIMMING POOLS**; and

WHEREAS, Lake County Public Health held a public hearing regarding the proposed Ordinance # 21 - Public Swimming Pools, on July 26, 2011 at 2:00 p.m. , in the Commissioners' Chamber in Two Harbors, Minnesota; and

WHEREAS, Lake County Public Health forwarded the proposed Ordinance #21 -PUBLIC SWIMMING POOLS - to the Lake County Board of Commissioners for adoption;

NOW, THEREFORE, BE IT RESOLVED, that the Lake County Board of Commissioners hereby adopts the Lake County Swimming Pool Ordinance, effective August 19, 2011.

Adopted: July 26, 2011

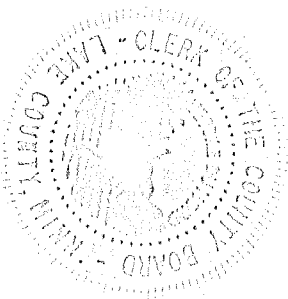
Commissioner Sve moved the adoption of the foregoing resolution and the same was declared adopted upon a majority vote of all members present. Yea: Bergman, Jones, Goutermont, Sve. Nay: Clifford. Absent: None

STATE OF MINNESOTA)
ss.
County of LAKE)

I, Laurel Buchanan, clerk of the Board, Lake County, Minnesota, do hereby certify that I have compared the foregoing resolution with the original filed in my office on the 26th day of July, 2011, and that the same is a true and correct copy of the whole thereof.

WITNESS my hand and seal of office at Two Harbors, Minnesota this 16th day of August, 2011.

Laurel Buchanan
Clerk of the Board



Laurel D. Buchanan
Administrative Clerk of the Board

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