

**WASECA COUNTY
PUBLIC SWIMMING POOL
ORDINANCE No. 103**

Adopted May 18, 2010

**WASECA COUNTY PUBLIC SWIMMING POOL
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I N D E X

Section I - Purpose

Section II - Scope

Section III - Authority

Section IV - Definitions

Section V - Adoption of Public Pool Standards

Section VI - Plan Review of Future Construction

Section VII - Compliance Procedures

Section VIII - Adoption of Ordinance

WASECA COUNTY ORDINANCE NO. _____

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 Waseca County, thereof be and thereby is established as follows:

This ordinance shall be applicable to all public pools as defined in Minnesota Statute 144.1222 and Minnesota Rules Chapter 4717.0150 – 4717.3970.

The County Board of Waseca 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 and to protect the health, safety and general welfare of the people of Waseca County, including the following general objectives:

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

SECTION II - SCOPE

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

SECTION III - AUTHORITY

This ordinance is enacted pursuant to Minnesota Statutes 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 means the Le Sueur - Waseca Community Health Board acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.
- 4.2 Public Health Department means the Le Sueur - Waseca Community Health Board and its Public Health staff.
- 4.3 Administrator means the Le Sueur - Waseca Community Health Services' Administrator and any related staff acting under the Board's authority.
- 4.4 "Public Pool" means 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; (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 - - ADOPTION OF PUBLIC POOL STANDARDS

- 5.1 The standards for Public Pools outlined in Minnesota Rules Chapter 4717.0150 to 4717.3970 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 Le Sueur - Waseca Community Health Board and its designated agents.

SECTION VI - - PLAN REVIEW OF FUTURE CONSTRUCTION

- 6.1 GENERAL. When a public pool in Waseca 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 VII - - COMPLIANCE PROCEDURES

- 7.1 LICENSES NEEDED. It shall be unlawful for any person to operate a public pool within Waseca County who does not possess a valid license issued to them by the Public 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 May 31st each year.

7.2 APPLICATION FOR LICENSE.

- A. Any person desiring to operate a public pool shall make written application for a license on forms provided by the Public 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, name of certified pool operator®/certified trained operator, certification number and expiration, as well as the signature of the applicant or applicants, along with all State of Minnesota required information. If a partnership, the names of the partners, together with their addresses shall be included. Each application for a license, together with the appropriate license fee as described herein shall be submitted to the Community Health Board not later than June 1st each year, following expiration of the previous year's license, transfer of ownership, or in the case of a new pool or seasonal pool, 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 Le Sueur - Waseca Community Health Board. 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 Community Health 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 Community Health Board by the dates specified in section 7.2A. The license fee for change of ownership of a previously licensed establishment under this chapter for the same license period is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for establishments opening on or after March 1 is one-half the appropriate annual license fee, plus any penalty that may be required.

7.3 INSPECTION AND CORRECTION.

- A. Pursuant to Minnesota Rules, Chapter 4717.0375, the Public 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 Public Health Department in the performance of its duties, or refuse to permit the Public Health Department to make such inspections.

- B. The person operating a public pool shall, upon request of the Public 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 commissioner. 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 commissioner. A pool must be closed when:
 - a. the units of lifesaving equipment specified in part 4717.1450 are not provided;
 - b. the water clarity standard specified in part 4717.1750, subpart 7, is not met;
 - c. the disinfection residual specified in part 4717.1750 subpart 3, is not met;
 - d. the pool has been constructed or physically altered without approval of plans as required by part 4717.0450; or
 - e. all drain covers are not properly secured using the screw or attachment recommended by the manufacturer
 - f. 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 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.

7.4

SUSPENSION OF LICENSE.

- A. Licenses may be suspended temporarily by the Administrator 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 writing 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 Administrator by the license holder.
- B. Any person whose license or permit 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 their opinion the

condition(s) causing suspension of the license has/have been corrected, the Administrator shall make a reinspection. If the applicant is in compliance with the requirements of this ordinance and MN Rules Chapter 4717, the license shall be reinstated.

- 7.5 REVOCATION OF LICENSE. For serious or repeated violations of any of the requirements of this ordinance, MN Rules Chapter 4717.0150 to 4717.3970 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 Administrator shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.
- 7.6 APPEALS BOARD. The Appeals Board shall consist of the Chairperson and Vice Chairperson of the Le Sueur - Waseca Community Health Board or their designated appointee, and the Administrator or a designated agent. The Vice Chairperson of the Le Sueur – Waseca Community Health Board shall serve as Chairperson of the appeals board.
- A. REQUEST FOR HEARING. Any person affected by a notice of embargo, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Administrator, 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.
- B. 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 Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment a good and sufficient reason exists for such postponement.
- C. NOTICE OF HEARING. The Administrator 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.
- D. 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 embargo, suspension, or revocation issued by the Administrator should be modified or withdrawn. The Administrator shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
- E. DECISIONS OF THE APPEALS BOARD. The Appeals Board, within three (3) days after such hearing, shall sustain, modify or withdraw the notice of embargo, suspension, or revocation depending upon its findings. 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 therefrom in any court of competent jurisdiction as provided by the laws of the state.

- F. RECORD OF PROCEEDINGS. The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Administrator shall be recorded and reduced to writing and entered as a public record in the office of the Administrator. Such record shall include a copy of every notice or order or writing issued in connection with the matter.

 - G. 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 Administrator within ten (10) days after the notice is served.
- 7.7 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.
- 7.8 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.
- 7.9 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 as provided by law. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.
- 7.10 VIOLATION. 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.
- 7.11 EFFECTIVE DATE. This ordinance shall be in full force and effect upon publication and adoption pursuant to law.

SECTION VIII - ADOPTION OF ORDINANCE

Adopted this 18th day of May, 2010 .

COUNTY BOARD OF COMMISSIONERS

Chairperson, Commissioner James Peterson

ATTEST:

County Auditor/Treasurer, Joyce Oliver