

JAY COUNTY ORDINANCE 2012 - 07

AN ORDINANCE REGULATING
SWIMMING POOLS, SEMI-PUBLIC POOLS, WADING POOLS AND SPAS
IN JAY COUNTY, INDIANA

WHEREAS, it is the obligation of the Jay County Board of Health and the Jay County Board of Commissioners to safeguard public health regarding Swimming Pools, Semi-Public Pools, Wading Pools and Spas that are constructed and operated properly to ensure the health and safety of the public;

AND WHEREAS, the Jay County Board of Health and the Jay County Board of Commissioners find there is a need to set standards for management, personnel, operations, construction and equipment at Swimming Pools, Semi-Public Pools, Wading Pools and Spa facilities intends to repeal Ordinance 1999-8;

AND WHEREAS, the Jay County Board of Health and the Jay County Board of Commissioners desire to require construction plans; require permits and payment of permit fees for the operation of Swimming Pools, Semi-Public Pools, Wading Pools and Spas; provide for inspections of Swimming Pools, Semi-Public Pools, Wading Pools and Spas; provide for compliance and enforcement of this Ordinance; provide penalties for violations of said Ordinance; and to incorporate by reference Indiana Codes (IC) 16-19-3-4, Indiana State Department of Health Rules 410 Indiana Administrative Code (IAC) 410 IAC 6-2.1, 327 IAC 8-2, 675 IAC 20, and Indiana State Department of Health Bulletin S.E. 13, as amended;

AND WHEREAS, the Jay County Board of Health and the Jay County Board of Commissioners hereby authorize the Jay County Health Department to issue Swimming Pool, Semi-Public Pool, Wading Pool and Spa Permits, collect permit Fees and penalties, perform inspections, hold hearings, order and otherwise compel correction of violations of this Ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this Ordinance;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Jay County, State of Indiana, that:

CHAPTER 1
DEFINITIONS

Unless the context specifically indicates, the meaning of terms used in this Ordinance shall be as follows:

1-1 BATHER shall mean any person using the facility and adjoining area

for the purpose of therapy, relaxation, recreation, or related activities.

- 1-2 BOARD shall mean the Jay County Board of Health, Jay County, Indiana.
- 1-3 DEPARTMENT shall mean the Jay County Health Department, Jay County, Indiana
- 1-4 HEALTH OFFICER shall mean the person appointed, qualified, and acting Health Officer of Jay County, Indiana, or his/her authorized representative.
- 1-5 HEARING OFFICER shall mean an individual or quorum (a majority of the total members of Jay County Board of Health) acting in the capacity of a Hearing Officer in an appeals process.
- 1-6 IMMINENT HEALTH HAZARD shall mean any event, circumstance or situation, which in the sole discretion of the Health Officer, presents a serious and present health risk to a person or the public at large.
- 1-7 OWNER shall include, but not be limited to, any person, individual, corporation, firm, partnership, association, business legal entity, or any other group acting as a unit, as well as a trust or estate or the 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 swimming pool or who shall be so designated as the Owner on the permit application.
- 1-8 PERMIT means a certificate of a size and style previously approved and issued by the Health Officer.
- 1-9 PERSON shall mean any individual, partnership, firm, company, corporation, other legal entity, municipality, other division of government, or his or its legal representative or agent.
- 1-10 PUBLIC means used by persons other than the owner of a private single family residence, members of its household and houseguests.
- 1-11 SEMI-PUBLIC POOL means any pool restricted for use by resident, members, or registered guests that is intended to be used for swimming or bathing and is operated solely for and in conjunction with:
 - (1) hotels, motels, apartments, condominiums, bed and breakfast, tourist homes or similar facilities associated with lodgings;
 - (2) camps or mobile home parks;
 - (3) membership clubs, churches, or association.

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 an individual for the sole use of the household and house guests.

1-12 SPA means a pool designed for recreational or therapeutic use, or both, commonly known as a hot tub or therapy pool, that is not drained, cleaned, and refilled after each use. The term may include, but is not limited to:

- (1) hydrojet circulation;
- (2) hot water;
- (3) cold water;
- (4) mineral baths;
- (5) air induction systems; or
- (6) any combination thereof.

1-13 SWIMMING POOL shall mean any structure, basin, chamber, or tank containing an artificial body of water for swimming, bathing, competition, relaxation or recreational use. "Swimming Pool" shall include public pools, semi-public pools, spas, wading pools, auxiliary structures including dressing and locker rooms, toilets, showers, and other areas and enclosures that are intended for the use of persons using the pool, but shall not include pools and auxiliary structures and equipment at private single-family residences intended only for the use of the Owner, their household and house guests.

1-14 Wading Pool means a pool used for bathing that has a maximum depth of two (2) feet.

CHAPTER 2 PERMIT REQUIREMENTS

2-1 Nothing in this ordinance shall be construed as applying to swimming pool, semi public pools, wading pools or spa maintained by an individual for the sole use of this household and house guests or to a pool in a hospital or health facility approved by the Indiana State Department of Health which pool is used for individual therapy only and is drained and filled prior to each individual use.

2-2 It shall be unlawful for any person to operate a Swimming Pool in Jay County, Indiana who does not possess a valid permit from the Health Officer. Permit shall be posted in a conspicuous place on the premises of the swimming pool. Only persons who comply with the applicable provisions of this ordinance shall be entitled to receive and retain a permit, for a term beginning January 1st and/or before commencement of operation and expiring December 31st of the

same year. Any permit issued by the Health Officer shall contain the name and address of the Owner and other data as the Health Officer may deem necessary.

- 2-3 Swimming Pools that operate in Jay County, Indiana, shall pay the Health Department an initial or annual permit renewal fee per calendar year under the authority of Jay County Ordinance approved by the Jay County Commissioners for deposit into the Jay County Health Fund.
- 2-4 Spas that are operated and equipped with a separate filtration system shall be subject to a separate permit fee, which shall be submitted with the initial or annual permit fee pool renewal application.
- 2-5 Tax supported units of government shall be exempt from the payment of the above-prescribed fee.
- 2-6 In addition, a permit fee shall be paid for each additional Swimming Pool or Spa operated by the same Owner at the same address, which is equipped with separate filtration and disinfection systems.

CHAPTER 3
CONSTRUCTION, SANITATION, AND OPERATION REQUIREMENTS

- 3-1 The requirements of Rule 410 IAC 6-2.1 and as amended, "Swimming Pool Rule" of the Indiana State Department of Health is hereby incorporated by reference as part of this ordinance and all Swimming Pools, Semi-Public Pools and Spas shall be operated and maintained in accordance with the terms and provisions of such Rule.
- 3-2 The requirements of Rule 675 IAC 20, and as amended, "Swimming Pool Code" are hereby incorporated by reference as part of this ordinance, and all Swimming Pools shall be operated and maintained in accordance with the terms and provisions of such Rule.
- 3-3 The continued use of a wooden hot tub or Spa, which was installed prior to the effective date of this rule shall be permitted if it is maintained in a sanitary condition. The installation of a wooden hot tub or Spa after the effective date of this rule shall not be permitted.
- 3-4 A Swimming Pool, Semi-Public Pool or Spa that does not meet the applicable bacteriological quality standards enumerated in Rule 410 IAC 6-2.1 and Rule 675 IAC 20, as amended, shall be deemed a health hazard and shall constitute grounds for closure.
- 3-5 Bacteriological sampling shall start at least one week prior to the opening

of a Swimming Pool, Semi-Public Pool or Spa.

- 3-6 All circulated water in a Spa, shall go through a filtration system and an erosion type mechanical chemical feeder prior to injection into the Spa.
- 3-7 When chlorine is used in a spa, a free chlorine residual of at least three (3.0) mg/liter shall be maintained throughout the Spa water. When other residue disinfectant level falls below the minimum designated level, the Spa shall be closed and kept free of bathers until the minimum level has been restored.
- 3-8 Temperature of a Spa shall not exceed one hundred four degrees Fahrenheit (104 F.) or forty degrees Celsius (40 C.) A thermometer capable of accurately measuring temperatures in the range of eighty degrees Fahrenheit (80 F.) or twenty-seven degrees Celsius (27 C.) to one hundred twenty degrees Fahrenheit (120 F.) or forty-nine degrees Celsius (49 C.) shall be provided at each Spa facility. The thermostat controlling the water temperature of a Spa shall be located in such a way that it cannot be adjusted by customers while seated in the Spa.
- 3-9 Visible dirt at the bottom of a Spa shall be removed every twenty-four (24) hours or more frequently as required. Scum or floating matter on a Spa surface shall be removed continuously by skimming, flushing or other effective means. A Spa shall be drained and scrubbed with a disinfectant agent every two (2) weeks or more frequently if there are indications of poor water quality or clarity. The deck and cover of a Spa shall be cleaned and scrubbed with a disinfecting agent at least once (1) every week. Such disinfecting agent shall be compatible with other pool chemicals used and have a concentration when applied which is equivalent to one hundred (100) mg/liter available chlorine.
- 3-10 Daily operating records shall be maintained and recorded each day while the Spa is open for use. It shall include the following: total bather loads, water temperature, volume of fresh water added, operating period of recirculating pumps and filters and corresponding rate of flow meter readings, amount and types of chemicals used, disinfectant residual, pH readings, maintenance and malfunction of equipment, if any results of bacteriological examinations and reports of accidents, injuries, illness or complaints relate to spa or hot tub operation. Operators shall keep daily operating records for a minimum of one year. Daily operating records shall be open to inspection by the Health Officer and weekly summaries of these records shall be submitted to the Department on forms prepared by the Health Officer.

CHAPTER 4
SEWAGE DISPOSAL SYSTEMS

- 4-1 Treated swimming pool water or filter backwash water shall not be discharged to residential or small commercial building type sewage disposal systems. Filter wash water may not be discharged directly to a drain, ditch, stream or lake.

CHAPTER 5
DEPTH MARKINGS

- 5-1 Depth of water shall be plainly marked at or above the water surface of the vertical wall of the Swimming Pool or Semi-Public Pool, and on the edge of the deck or walk next to the Swimming Pool or Semi-Public Pool, at maximum and minimum depths. This provision shall not apply to Spas.
- 5-2 Depth markers shall be plainly legible from the centerline of the pool where depth markers cannot be placed on the vertical walls above the water level, other means shall be used which are visible to persons in the Swimming Pool or Semi-Public Pool.
- 5-3 Swimming Pools or Semi-Public Pools having a diving board shall conform to the minimum dimensions as set forth in Figure 2-1 of 675 IAC 20-2-15.

CHAPTER 6
SAFETY AND LIFE SAVING EQUIPMENT

- 6-1 A spine board with ties and rigid cervical collar must be provided and accessible at all times. This provision shall not apply to Spas.
- 6-2 Signs stating "No Diving" in clearly legible 3" high letters shall be displayed in non-diving and shallow portions (five (5) feet depth or less) of Swimming Pools and Semi-Public Pools. Said display shall be in locations clearly visible to bathers entering the pool in non-diving areas. Diving shall not be allowed in pools or areas of pools that are not designed and constructed for the purpose. A "Pool Closed" sign in clearly legible letters must be posted when the pool is not open to bathers.

CHAPTER 7
WATER QUALITY STANDARDS

- 7-1 All gaseous chlorine equipment shall be operated and maintained in accordance with the standards and recommendations of the Chlorine Institute, Incorporated. Pool equipment operating staff shall be trained in use of all such equipment including the self-contained breathing apparatus and shall be prepared to show evidence of that training. A plan of action for an emergency arising from the usage of gaseous chlorine shall be

posted and practiced.

- 7-2 When chlorine is used, a free chlorine residual of at least 1.0 mg/liter shall be maintained throughout the pool whenever it is open or in use. If other halogens are used, residuals of equivalent disinfecting strength shall be maintained.
- 7-3 The owner shall collect and shall examine from each Swimming Pool or Semi-Public Pool subject to this Ordinance at least one bacteriological sample per week whenever the Swimming Pool or Semi-Public Pool is open for use.
- 7-4 The Swimming Pool or Semi-Public Pool water shall be maintained in an alkaline condition as indicated by pH not less than 7.2 and not over 7.8. A pH testing kit accurate to the nearest 0.2 pH unit shall be provided at each swimming pool. The total alkalinity of the water shall be at least 80 parts per million (ppm).
- 7-5 No two (2) consecutive samples or three (3) samples collected in a six (6) week period shall demonstrate the following:
- a. contain more than 200 bacteria colonies per milliliter, as determined by the standard 35 Centigrade, agar plat count, or
 - b. test positive(confirmed test) for coliform organisms in any of the five (5) to ten (10) milliliter portions of a sample when the multiple tube fermentation tube is used.
 - c. test positive for more than one (1) coliform organism per fifty (50) milliliters when the membrane filter test is used.
 - d. show the presence of any coliform when the one hundred (100) milliliter presence/absence test is used.
- 7-6 All samples shall be collected, dechlorinated, and examined for total plate count and coliform bacteria. Such test shall be performed in accordance with procedures outlined in the latest edition of Standard Methods for the Examination of Water and Waste Water (APHA). Where samples are examined in laboratories other than those of the Indiana State Department of Health, copies of the report of examination shall be sent by the laboratory to the Jay County Health Department.

CHAPTER 8 SUPERVISION

- 8-1 A qualified lifeguard is required for all public pools. A qualified lifeguard is required for all semi-public pools with a surface area of two thousand (2,000) square feet or more. Lifeguards must be on duty at poolside at all times when the pools are open for use.

- 8-2 Additional lifeguards shall be required to maintain a patron load of more than seventy-five (75) persons per life guard when the pool is open for use.
- 8-3 The supervision requirements of this Chapter shall not be applicable in those situations where a Spa exists independently without an associated Swimming Pool or Semi-Public Pool.

CHAPTER 9
POWERS FOR INSPECTION, SUSPENSION,
REVOCAION AND ORDERS

- 9-1 The Owner or his agent shall, upon the request of the Health Officer, permit access to all areas of the Swimming Pool, Semi-Public Pool, Wading Pool or Spa and shall permit inspection of, access to, and the copying of all records relating to the operation of the Swimming Pool, Semi-Public Pool, Wading Pool or Spa.
- 9-2 Whenever the Health Officer determines there are reasonable grounds to believe there has been a violation of any provision of this Ordinance, he/she shall give notice of such alleged violations to the Owner and/or agent, as hereinafter provided. Such notice:
 - a. shall be in writing;
 - b. shall include a statement of the reasons why it is being issued;
 - c. shall contain an outline of remedial action, which if taken, will affect compliance with the provisions of the Ordinance;
 - d. shall allow a reasonable time for the correction of the violations; and
 - e. shall be served upon the Owner or his agent, provided that such notice shall be deemed to be properly served upon such Owner or agent, if a copy thereof is sent by certified mail to the address listed on the, or about the facility affected by the notice, or if the Owner is served with such notice by any other method authorized under the laws of this state.
- 9-3 Any permit issued under the provisions of this Ordinance may be temporarily suspended by the Health Officer for any of the following reasons:
 - a. failure to meet any of the standards required by this Ordinance.
 - b. violation of any provision or provisions of this Ordinance.

- c. interference with the Health Officer or any of their authorized representatives in performance of their duties.

9-4 Notwithstanding any other provisions of this Ordinance, whenever the Health Officer finds unsanitary or other conditions, involving the operation of any Swimming Pool, Semi-Public Pool, Wading Pool or Spa which, in his/her opinion, constitute an imminent health hazard, the Health Officer may, without notice of a hearing may issue a written order to the Owner, citing the existence of such conditions and specifying corrective action to be taken, and in the event that the suspected or known imminent health hazard is found to exist, require immediate discontinuance of operations.

- a. such order shall be effective immediately.
- b. the Owner upon petitioning the Health Officer, shall be afforded a hearing as soon as possible.
- c. when the necessary corrective action has been taken and the owner so requests, the Health Officer shall make a re-inspection to determine whether the operations may be resumed.

9-6 Any permit issued hereunder may be revoked by the Health Officer for willful or continuous violation of any provision or provisions of this Ordinance.

9-7 Such revocation shall be ordered by the Health Officer for willful or continuous violations of any provision or provisions of this Ordinance.

CHAPTER 10 ENFORCEMENT AND PENALTIES

10-1 It shall be the duty of the Health Officer to enforce the provisions of this Ordinance. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an Order issued by the Health Officer shall be considered a violation of this Ordinance.

10-2 Whenever the Health Officer determines that the Owner of any Swimming Pool is in willful violation of any of the provisions of this Ordinance, the Health Officer shall furnish evidence of said willful violation to the attorney for the Health Department, who shall pursue legal action against persons violating said provisions of this Ordinance.

10-3 The operation of any Swimming Pool which is contrary to any of the provisions of this Ordinance is hereby declared to be a common nuisance and an unlawful violation of this Ordinance; and the Owner of said Swimming Pool shall be liable for maintaining a common nuisance.

- 10-4 Any owner person, firm or entity that shall violate any provision of this Ordinance shall pay a fine of not more than five Hundred Dollars (\$500.00) for each violation. Each day of the existence of any violation of this Ordinance shall be a separate offense.
- 10-5 The Health Officer may bring an action for an injunction in the Circuit Court or Superior Court of Jay County, Indiana, to restrain any Owner from violating the provisions of this Ordinance, or to cause such violation to be prevented, abated, or removed.
- 10-6 Any Owner violating any of the provision of this Ordinance shall become liable to Jay County Health Department for any expense, loss, or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.
- 10-7 The remedies provided for in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

CHAPTER 11
ENFORCEMENT INTERPRETATION

- 11-1 The Health Officer may initiate any procedures as he/she deems necessary for proper enforcement in order to carry out the purpose and intent of this ordinance.

CHAPTER 12
APPEALS

- 12-1 Any person(s) aggrieved by Health Officer Orders shall be entitled to a review of the final Order before a Hearing Officer by filing a written request with the Health Officer. The written request must be mailed or hand delivered to the Jay County Health Officer, and must be received within fifteen (15) days after such final Order is issued.
- 12-2 Upon the Health Officer receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place and nature thereof.
- 12-3 The notice of the hearing shall be served upon the Person requesting the review by hand delivering or Certified Mail the notice to the address listed on the permit application as the Person's mailing address or such other address, as the person shall designate in the letter of request to the Health Officer.

- 12-4 The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.
- 12-5 The Hearing Officer shall make written findings of facts and shall enter its final Order or determination of this matter in writing.
- 12-6 The Order completes the Administrative Appeals procedure.
- 12-7 The expense of such proceedings shall be charged to the party applying for the review. The Board may require the party applying for a review to deposit with such request an amount as determined by it to secure such expenses.

CHAPTER 13
CONFLICT OF INTEREST

- 13-1 No Jay County Health Department Official shall conduct themselves in any manner that is or could have the appearance of a Conflict of Interest to this Ordinance.

CHAPTER 14
UNCONSTITUTIONALITY CLAUSE

- 14-1 Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

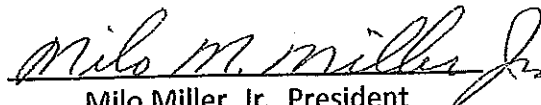
CHAPTER 15
REPEAL – SEVERABILITY

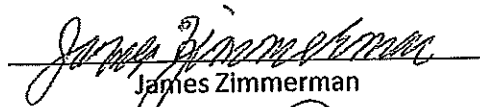
- 15-1 All ordinances or parts of ordinances in conflict herewith are repealed.
- 15-2 The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

CHAPTER 16
EFFECTIVE DATE

- 16-1 This Ordinance shall be in full force and effect from and after 12:01 A.M., on this 10 day of September, 2012.
- 16-2 Passed by the Board of Commissioner of the County of Jay, Indiana, on the 10 day of September, 2012.

THE BOARD OF COMMISSIONERS OF JAY COUNTY, INDIANA


Milo Miller, Jr., President


James Zimmerman


Faron Parr

ATTESTED:


Nancy Culy, Jay County Auditor