

ORDINANCE NO 2012-BC-12-

OF THE BOARD OF COMMISSIONERS OF MADISON COUNTY INDIANA

AN ORDINANCE ADOPTING A MADISON COUNTY POOL ORDINANCE

WHEREAS, The Madison County Board of Health did on January 12, 2012, recommend for approval a county pool ordinance and

WHEREAS, the Board of Commissioners concur in the recommendations of the County Health Board regulating the permitting , inspection and enforcement for swimming pools and facilities in Madison County and providing penalties for violations thereof.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MADISON COUNTY AS FOLLOWS:

Purpose: The purpose of this ordinance is to initiate a permitting process at the local level allowing this department to keep record of the facilities currently operating in Madison County, Indiana as well as to enforce the rules set forth by this ordinance and the Indiana State Department of Health Rule 410 IAC 6-2.1., or as may be amended.

Section 1 Definitions:

1. **Pool:** According to Indiana Rule 410 IAC 6-2.1-11, "Pool" means a structure, basin, chamber, or tank containing an artificial body of water for swimming, bathing, competition, relaxation, or recreational use.
2. **Spa:** According to Indiana Rule 410 IAC 6-2.1-18, "Spa" means a pool designed for recreational or therapeutic, or both, use, 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.
3. **Public swimming pool:** According Indiana Rule 410 IAC 6-2.1-13, "Public pool" means 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 an individual for the sole use of the household and house guests.

4. **Semi-public swimming pool:** According Indiana Rule 410 IAC 6-2.1-13, "Semi-public pool" means any pool restricted for use by residents, members, or registered guests that is intended to be used for swimming or bathing and is operated solely for and in conjunction with:
 - a. hotels, motels, apartments, condominiums, bed and breakfasts, tourist homes, or similar facilities associated with lodgings;
 - b. camps or mobile home parks; or
 - c. membership clubs, churches, or associations. 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
5. **Health Officer:** "Health Officer" means the Health Officer of the Madison County Health Department.
6. **Annual permit:** A permit for a facility operating one or more public or semi-public bodies of water for more than 180 days in one calendar year.
7. **Semiannual permit:** A permit for a facility operating one or more public or semi-public bodies of water 180 days or less in one calendar year.
8. **Not for Profit Organization:** any facility or organization exempt from paying Gross Income Tax under IC 6-2.1-3-20 through IC 6-2.1-3-22.

Section 2 Permitting:

1. According to this ordinance it shall be considered unlawful to operate a public or semi-public swimming pool facility in Madison County Indiana without a valid permit issued by the Health Officer or their authorized representative.
2. Permits for any public or semi-public swimming pool shall only be issued by the Health Officer or authorized representative only upon compliance with the rules listed herein and any rules set forth by Indiana Rule 410 IAC 6-2.1.
3. Each annual permit is valid for one (1) full calendar year beginning at the start of each year, January 1st through December 31st. Each semiannual permit is valid for 180 days after the date of purchase. All permits will expire at the end of each calendar year (December 31st) regardless of when the permit was issued to the facility.
4. Any permit issued to a facility for a public or semi public swimming pool may be revoked by the Health Officer or their authorized representative if the facility is not in compliance any rules contained within this ordinance or Indiana Rule 410 IAC 6-2.1 or any other rule pertaining to public or semi public swimming pools adopted by the Madison County Board of Commissioners.

5. A permit is required for each individual body of water at a facility. The permit will be issued to the facility owner or operator upon application approval; payment for the permit; and one (1) satisfactory bacteriological water sample from a state-approved laboratory in accordance with the procedures outlined in 410 IAC 6-2.1-18.5.
6. The permit for a public or semi public swimming pool must be purchased before the facility is opened for use and must be valid anytime the facility is open for use. Any facility found operating without a valid permit will be subject to penalties as described in Section 7, Subsection 6e, and/or legal action.

Section 3 Fees:

1. All facilities operating a public or semi- public swimming facility shall pay a permitting fee for each body of water according to the Madison County Health Department fee schedule, as may be amended, by the Madison County Board of Commissioners.

a. Annual Permit (1 year):

(1) First body of water:	\$300.00
(2) Each additional body of water:	\$50.00

b. Semi- Annual Permit (180 days):

(1) First Body of Water:	\$150.00
(2) Each additional body of water:	\$50.00

2. Any facility that is found operating a public or semi public swimming pool, and is open for use without a valid operating permit issued by the Health Department shall be subject to a late fee penalty as outlined in Section 7, Subsection 6 e.
3. If any facility continues to operate without a valid permit after written notice has been issued to the facility, it shall be considered a subsequent violation and will be subject to an operating without a valid permit fee as well as violation penalty fees as described in Section 7, Subsection 6.
4. Any public school shall be exempt from any permit fees, but must still obtain operating permits from the Madison County Health Department.

Section 4 Inspection:

1. All public and semi public swimming facilities shall meet all rules and regulations set forth by this ordinance and Indiana Rule 410 IAC 6-2.1.
2. Any body of water that is operating under an annual permit shall be inspected by the Madison County Health Department at least two (2) times per calendar year. Any body of water that is operating under a semiannual permit shall be inspected at least one (1) time per calendar year. Any facility open for use may be subject to additional inspections as deemed appropriate by the Health Officer or their representative.

3. The Health Officer or their representative shall have the right to enter and conduct an inspection at any reasonable time.
4. Any facility that denies entry to the Health Officer or their authorized representative may have their operating permit revoked or suspended if deemed necessary by the Health officer or authorized representative.

Section 5 Compliance:

1. Any facility that operates a public or semi public pool must meet all applicable requirements as set forth by this ordinance and Rule 410 IAC 6-2.1, and any other future requirements adopted by the Madison County Commissioners or the State of Indiana.
2. Any facility that does not meet these requirements may be subject to closure and/or revocation of their operating permit as deemed appropriate by the Madison County Health Officer or their authorized representative.
3. Any facility currently operating that does not meet the criteria set forth in this ordinance or Rule 410 IAC 6-2.1 shall be given a reasonable amount of time to comply as deemed appropriate by the Health Officer or their authorized representative.

Section 6 Enforcement:

1. Enforcement of this ordinance and Indiana Rule 410 IAC 6-2.1 shall be carried out by the Health Officer or authorized representative.
2. Failure to adhere to any criteria set forth in this ordinance or Rule 410 IAC 6-2.1 may constitute legal action by the Madison County Health Department, as well as closure and/or revocation or suspension of the facilities operating permit if deemed appropriate by the Health Officer or their authorized representative.
3. If a facility is closed by order of the Health Officer or their authorized representative, a closure sign shall be posted at the facility. If a closure sign posted at a facility is tampered with in any way by someone not authorized to do so by the Health Officer or their authorized representative, the facility may lose the right to obtain an operating permit, and may necessitate legal action by the Madison County Health Department if deemed appropriate by the Health Officer or their authorized representative.

Section 7 Notices, Hearings, and Legal actions:

1. **Revocation of Permit:** If the revocation of a permit is deemed appropriate by the Health Officer or their authorized representative, the permitted facility may reserve the right to request a hearing within the first seventy-two (72) hours after revocation of the permit in order to dispute the revocation of the permit. If the individual fails to show just cause why the permit should not be revoked, the permit will remain revoked and written notice will be given to the permitted facility. The Health Officer or their authorized representative shall maintain a permanent record of these proceedings filed within the records of the Madison County Health Department.
2. **Suspension of Permit:** Any permit issued by the Madison County Health Department may be suspended or revoked without notice or hearing for a term not to exceed thirty (30) days if

deemed appropriate by the Health Officer or their authorized representative. Written notification will be provided to the facility as well as filed in the records maintained by the Madison County Health Department.

3. **Reinstatement of a permit:** A suspended or revoked permit may be reinstated at any time by the Health Officer or their authorized representative after the violation has been corrected and the Health Officer of Madison County or their authorized representative has determined that the facility is in compliance with this ordinance or Rule 410 IAC 6-2.1.

4. **Penalties:** If the Health Officer or their authorized representative determines that a violation of this ordinance or Indiana Rule 410 IAC 6-2.1 has been committed, and a reasonable amount of time has been given to correct the violation, the Health Officer or authorized representative reserves the right to penalize a facility for any violations not corrected within a reasonable amount of time not to exceed 30 days. Any violation(s) not corrected by the date given in the written notice are subject to penalties as described in Section 7-6 of this ordinance.

5. **Violations:**

- a. Any violations found during an inspection or complaint investigation shall be submitted in writing to the facility at the time of the inspection or investigation.
- b. Allowed a reasonable amount of time to correct the violation(s) as determined by the health officer or authorized representative, not to exceed 30 days.
- c. Any facility served with a written notice of violation has the right to request a hearing to dispute the violation before the Health Officer or authorized representative, and if necessary, the Madison County Board of Health within seventy two (72) hours after the written notice has been received.
- d. Any violation not corrected by the date issued on the written violation notice will be considered an offense under Section 7 subsection 6, and shall be subject to penalties as outlined in Section 7 subsection 6.

6. **Penalty Fees:**

- a. First Offense: \$100.00
- b. Second Offense: \$200.00
- c. Third Offense: \$500.00
- d. Any violation not corrected after the third offense notice has been issued to the facility shall be subject to closure until such time as the violation has been corrected and all penalties have been paid.
- e. Operating without a valid permit: \$500.00

Section 8 Unconstitutionality Clause:

If any section, paragraph, sentence or clause within this ordinance be deemed unconstitutional or invalid, the remainder of the ordinance shall remain in effect.

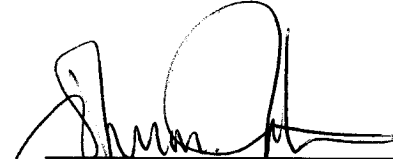
This ordinance shall be in full force and effect upon passage and notice of adoption as required by law. This ordinance was recommended for adoption by the Madison County Board of Health, Madison County, Indiana on the 12th day of January 2012.

Section 9: Repeal and Effective Date

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect thirty (30) days after its adoption and publication as provided by law.

PASSED AND ENACTED by the Board of Commissioners of Madison County, Indiana, this 20th_ day of March, 2012.

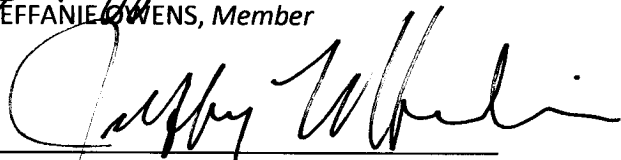
MADISON COUNTY BOARD OF COMMISSIONERS

BY: 

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STEFFANIE OWENS, *Member*



JEFF HARDIN, *Member*

ATTEST:



KATHY STOOPS-WRIGHT, *County Auditor*

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PREPARED BY:
Gerald P. Shine, Jr. (#297-48)
Madison County Attorney rev 3/20/12