

SUBJECT: AMENDED ORDINANCE #2004-2
(RECREATIONAL AQUATIC FACILITIES REGULATIONS)

ADOPTED DATE: AUGUST 3, 2015

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**REGULATIONS FOR OWNERS AND OPERATORS OF
RECREATIONAL AQUATIC FACILITIES**

Section 1. Definitions.

A. "Health Department": Fargo Cass Public Health Department

B. "Operator": The person designated by the owner as responsible to operate and maintain the pool in compliance with this ordinance.

C. "Person": Any individual, LLC, firm, partnership, association, corporation, company, society, government agency, club, or organization of any kind.

D. "Pool": Any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use and also including special purpose pools and wading pools.

E. "Private residential pool": A pool connected with a single family residence or owner, occupied duplex, located on private property, and 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.

F. "Public pool": Any pool, other than a private residential pool or semi-public pool, intended to be used collectively by a number of persons and operated by any other person whether the person be an owner, lessee, operator, or concessionaire, and regardless of whether a fee for use is charged.

G. "Recreational aquatic facilities": Any water play areas used for bathing, swimming or barefooted activities to include, but not limited to: public pools, semi-public pools, wading pools, splash pads, spray grounds, spas, lazy river, special purpose pools, plunge pools, water slides, flumes, speed slides, wave pools, sand bottom pools, vortex pools and zero depth entry pools.

H. "Semi-public pool": A pool or spa on the premises of, or part of but not limited to, pools operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, apartment building, club, condominium, hotel, manufactured home park, political subdivision or similar establishments where the primary business of the establishment is not the operation of a pool or spa and where admission to the use of the pool or spa is included in the fee, or consideration paid or given for the primary use of the premises to such groups and their invited guests.

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I. "Splash pad", also known as "spray pad": The specific area consisting of the play surface, spray features and drains, upon which the patrons stand and are sprayed with water.

J. "Spray grounds", also known as "recreational aquatic spray grounds": The buildings and appurtenances used in conjunction with a splash pad in which sprayed water is continually drained and collected in a treatment and recirculation system or drained into a sanitary sewer.

K. "Wading pool": Any pool with a maximum depth of twenty-four (24) inches.

Section 2. Regulation by health department.--The health department, and agents and employees thereof, shall have authority to regulate the public health and safety in Cass County concerning use, design, operation, and maintenance of recreational aquatic facilities. The health department shall have such authority to adopt regulations, rules, standards and practices. Such regulations, rules, standards, and practices shall be approved by the board of county commissioners, are hereby adopted by reference and fully incorporated herein, including any amendments hereinafter adopted, and shall be controlling within the jurisdiction of the health department.

Section 3. Health department approval of construction plans. --Before any construction, alteration, addition, remodeling, or other improvement to a recreational aquatic facility, the plans and specifications shall have been approved by the health department.

Section 4. Bathers with communicable diseases. --No person having any skin eruptions or abrasions, sore or infected eyes, infectious nasal or ear discharge, or any communicable disease shall be permitted to use recreational aquatic facility. Spitting, spouting water, or blowing the nose in the water of a recreational aquatic facility shall be strictly prohibited. The operator of a recreational aquatic facility shall post suitable placards embodying such personal regulation and instructions.

Section 5. Sanitation of premises. --The buildings, grounds, dressing rooms and all other areas of recreational aquatic facilities shall be kept clean and in a sanitary condition and maintained free from garbage, trash, and other refuse.

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Section 6. Cleaning.

A. Pool.-- All visible dirt, scum and floating matter shall be removed daily and the pool cleansed regularly by the use of such disinfecting agents or cleansing materials as may be required by the health department to maintain good sanitary conditions.

B. Splash pads/Spray grounds.--Visible dirt, debris, and animal waste on the spray pad and appurtenances shall be removed daily or as often as necessary to maintain good sanitary conditions. Spray grounds and associated pads shall be thoroughly cleansed at least once each week in manner and by the use of such disinfecting agents or cleansing materials as may be required by the health department.

Section 7. Inspection by health department. --The health department may inspect, or cause to be inspected, all recreational aquatic facilities, including residential pools, within the county at such times as it may deem necessary to carry out the intent of this ordinance. The health department hereby authorized to enter upon any premises, private or public, to take such samples of water from such pools at such times as it may deem necessary and to require the owner, proprietor, or operator, to comply with rules and regulations pertaining to recreational aquatic facilities promulgated by the health department in accordance with this ordinance, and as approved by the board of county commissioners. In the event of the failure of compliance, after due notice with the rules and regulations and requirements of the health department or the requirements of this ordinance, the health department shall have the power to abate or cause a suspension of the use of such recreational aquatic facility or residential pool until such a time as the same is, in the opinion of the health department, no longer a menace or a hazard to health, safety or morals.

Section 8. Periodic inspection and testing by the health department. --All recreational aquatic facilities in use shall be sampled and tested at intervals to be determined by the health department. The allowable limits and frequency of such tests shall be as determined by the health department.

Section 9. Licensing and Fees. --A license shall be issued when investigation has determined that the recreational aquatic facility and its method of operation will conform to the requirements of this chapter. A license, once issued, is nontransferable. A license shall be valid only for the location, unless revoked for cause, for the time period indicated. The license shall be posted in a conspicuous place in the recreational aquatic facility. The

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fee for the periodic tests required in Section 7 shall be established by resolution of the Fargo Cass Public Health Department. Any fees for periodic inspection and testing shall be the expense of the recreational aquatic facility.

Section 10. Revocation.--The public health department may revoke any license to operate or direct any recreational aquatic facility to close upon violation of this chapter.

When the public health department has revoked a recreational aquatic facility license, the person in charge:

- A. Shall immediately close the pool for use by anyone;
- B. Shall be notified in writing by the public health department that the recreational aquatic facility license is immediately revoked upon service of the notice and the suspension shall remain in effect until a hearing with the public health department occurs. If the public health department finds the operation to be in compliance with the requirements of this chapter, the recreational aquatic facility may reapply for a new license;
- C. May request a hearing by filing a written request for a hearing with the public health department within 10 days of receipt of the notice of revocation; and
- D. Shall be notified, if a written request for a hearing is not filed within 10 days that the revocation shall be sustained.

Any recreational aquatic facility owner whose license has been revoked may, at any time, make written application for a re-inspection for the purpose of re-applying for a license. The application shall include a statement, signed by the owner, that, in the owner's opinion, the conditions causing the revocation have been corrected.

A new license may be issued if the public health department determines that conditions which prompted the revocation no longer exist.

Section 11. Severability.--

A. With the passage of the ordinance, the entire county will be covered by a uniform recreational aquatic facility ordinance which will apply within the boundaries of Cass County, except that this ordinance will not supersede any ordinance of any political subdivision without its consent nor establish an ordinance in any incorporated political subdivision without its consent.

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B. Should any section, provision or part of this ordinance be adjudged invalid or unconstitutional, such adjudication should not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

APPROVED:

ss/Chad M. Peterson
Chad M. Peterson, Chair
Board of Commissioners
County of Cass

ATTEST:

ss/Michael Montplaisir
Michael Montplaisir, County Auditor

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(SEAL)

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