

## Chapter 171. PUBLIC AND SEMI-PUBLIC POOL AND SPA OPERATIONS

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## **Chapter 171. PUBLIC AND SEMI-PUBLIC POOL AND SPA OPERATIONS**

### **§ 171.01 TITLE.**

This chapter may be referred to as the “Fishers Swimming Pool Ordinance”.

### **§170.02 AUTHORITY**

The Health Officer, and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this chapter, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this chapter.

### **§171.03 ADOPTION BY REFERENCE.**

The regulations located at 410 IAC 6-2.1 *et. seq.*, entitled the Indiana Public and Semi-Public Pools Code of the Indiana, as amended from time to time and promulgated by the Indiana State Department of Health, and 675 IAC 20 *et. seq.*, as amended from time to time and promulgated by the Indiana Fire Prevention and Building Safety Commission are hereby incorporated and adopted by reference.

### **§171.04 DEFINITIONS.**

Undefined terms shall have the meaning prescribed to them by 410 IAC 6-2.1 and 675 IAC 20. In addition to or to otherwise supplement or to conveniently provide definitions for interpretation, this chapter shall include the following definitions:

- A. “Alkalinity” shall mean the total amount of bicarbonate, carbonate, and hydroxide compounds present in the water. Alkalinity refers to the ability or capacity of water to resist change in pH.
- B. “Annual Pools” shall mean Pools that are open twelve months of the year.
- C. “Calcium Hardness” shall mean the amount of calcium dissolved in the water. Calcium Hardness shall be expressed in parts per million of calcium carbonate.
- D. “Chlorine” shall mean the chemical element “Cl” that exists as a gas in its elemental form and which is an oxidant and biocidal agent, used in swimming pool disinfection. Chlorine may be derived from chlorine gas, calcium hypochlorite, sodium hypochlorite, trichloro-s-triazinetrione or lithium hypochlorite. Sodium dichloro-s-triazinetrione (dichlor shock) is excluded from this definition.
- E. “Combined Chlorine (Chloramine)” shall mean that portion of the total chlorine existing in water in chemical combination with ammonia, nitrogen, and/or organic compounds. Chloramine causes eye and skin irritation and has a strong, objectionable odor.

- F. "Cyanuric Acid" shall mean a chemical family of pool sanitizer products (isocyanurates) that are used to prevent the decomposition of chlorine by ultra-violet light. Cyanuric Acid is also referred to as a stabilizer, isocyanuric acid, conditioner, or triazinetrione.
- G. "Disinfectant" shall mean a chemical or chemicals used to react with and to kill undesirable or pathogenic organisms and having an easily measured free residual. Disinfectants are pesticides and must be registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act.
- H. "Free Chlorine" shall mean that portion of the total chlorine remaining in chlorinated water that is not combined with ammonia, nitrogen compounds, or other compounds and will react chemically with undesirable or pathogenic organisms.
- I. "Health Department" shall mean the Fishers Health Department, and its employees.
- J. "Health Officer" shall mean the Health Officer of the Health Department, or her duly authorized representatives.
- K. "Health Hazard" shall mean any condition which in the opinion of the Health Officer may reasonably lead to injury or disease or put the public health at risk. Health Hazard may include, but shall not be limited to, unacceptable disinfection residuals, unacceptable bacterial levels, or water clarity that does not allow viewing all parts of the pool.
- L. "Imminent Hazard" shall mean any event, circumstance, or situation, which in the discretion of the Health Officer, presents a serious and present health or safety risk to a person or to the public at large.
- M. "Inspection" shall mean a review of any portion of a swimming pool facility and its operations. The facility shall include the swimming pool and surrounding area, water supply, sewage disposal system, mechanical equipment and equipment room, chemical storage facility, safety and testing equipment, bath house, and any other portion of the swimming pool facility as deemed necessary by the Health Officer. The operations shall include bacteriological reports, operation records, and chemical water testing results.
- N. "Licensee" shall mean any individual, association, company, corporation, partnership, division of government or other group acting as a unit, trust, estate, 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 pool, or who shall be so named as the owner on the pool permit application.
- O. "Mechanical Chemical Feeder" shall mean a device approved by the Health Officer that allows for continuous (24 hours per day) and automatic additional of a chemical which imparts an easily measured free residual. All such devices must be sized to provide an

acceptable chemical residual, sufficiently adjustable to readily increase or decrease the chemical as necessary, and durable enough to operate continuously 24 hours per day.

- P. "Operating Records" shall mean a written record on approved forms, completed daily, outlining hours of operation, and all testing results (including bacterial, disinfectant residual, combined chlorine, pH, alkalinity, cyanuric acid, calcium hardness, and any changes to the pool operation.
- Q. "Persons in Charge (PIC)" shall mean the individual(s) who has knowledge of all laws, rules, and regulations of both the State of Indiana and City of Fishers governing swimming pools and who supervises compliance with all parts of this chapter. The PIC shall be available to the Health Department, either in person or by telephone, at all times during normal working hours. Moreover, the PIC shall be available within one hour for emergencies during non-working hours.
- R. "pH" shall mean a measure of the relative acidity or basicity of water as indicated by the hydrogen ion concentration. pH is expressed as a number on the scale of 0 to 14.
- S. "Pool Enclosure" shall mean the barrier between the swimming pool area and the area outside which is intended to deter unauthorized entry from outside the swimming pool area. The Pool Enclosure shall provide self-closing and self-latching hardware on all gates, doors, or other access through the enclosure and shall be locked when the swimming pool is closed.
- T. "Public Pool" shall mean any pool, other than 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 chapter will 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 or houseguests.
- U. "Seasonal Pools" shall mean pools that are open less than seven (7) months of the year.
- V. "Semi-Public Pools" shall mean 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 connection with (i) hotels, motels, apartments, condominiums, bed and breakfast facilities or similar facilities associated with lodging, (ii) camps or mobile home parks, or (iii) membership clubs, churches or associations. For clarification, school pools are excluded from this definition.
- W. "Spa" shall mean 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.

- X. "State Health Department" shall mean the Indiana State Department of Health.
- Y. "Stop Work Order" shall mean a written order of the Health Officer to stop all work on a project or construction of a swimming pool until the project is in compliance with all provisions of this chapter.
- Z. "Superchlorinate" shall mean the practice of adding a sufficient amount of chlorine to convert inorganic chloramines to a form that leaves the water. Superchlorination is referred to as breakpoint chlorination. Generally, chlorine must be added to ten times the difference between the chlorine and the total chlorine in the swimming pool water to superchlorinate and achieve breakpoint chlorination.
- AA. "Swimming Pool" shall mean an artificial body of water used by individuals primarily for the purposes of swimming, wading, diving, recreation, or instruction, and includes all related equipment, bath houses, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool. Swimming Pools shall include any structure, basin, chamber, or tank containing water for swimming, wading, diving, recreation or instruction and shall include swimming pools, pools, slide pools, spa pools, wave pools, wading pools, diving pools, whirlpools, hot tubs, water slides and spas, and interactive fountains. Swimming Pools shall not include the following: (i) residential swimming pools serving one or two family dwellings and maintained by an individual for the sole use of the household and houseguests; (ii) portable hot tubs or other pools or spas operated for medical treatment, physical therapy, or related purposes and that are drained and cleaned between uses and filled prior to use; and (iii) natural bathing areas such as streams, lakes, rivers, or man-made lakes that are at least 1-acre in size and not represented as filtered or disinfected.
- BB. "Test Kit" shall mean a set of devices and reagents used to accurately monitor the disinfectant residual, pH, Alkalinity, Calcium Hardness, Combined Chlorine, and any other chemical characteristic of the water as determined by the Health Officer as important in the control of water quality as further specified by 410 IAC 6-2.1-30(i), as amended. Testing strips shall be prohibited from Test Kits.
- CC. "Total Dissolved Solids" shall mean the total amount of dissolved matter in water (such as calcium, magnesium, carbonate, bicarbonates, metallic compounds and the like).

#### **§ 171.05 LICENSE REQUIREMENTS.**

- A. License Requirement. No person shall operate a Swimming Pool in the City of Fishers without a valid license. A License shall be issued for a term of one year commencing May 1<sup>st</sup> and expiring on April 30<sup>th</sup> of the subsequent year and shall be renewed annually.

- B. Limitations. The PIC shall only be in charge of one pool for any given facility except for facilities with more than one pool located on the same or contiguous property. The licensee may be the PIC or must specify a person-in-charge. At any time the Swimming Pool is not under the operation of the specified PIC, the licensee shall find a new person in charge within one week. If the new PIC is not specified within one week, the Swimming Pool shall close. Licenses are not transferable and shall be conspicuously posted at every swimming pool.

#### **§171.06 ISSUANCE OF LICENSE.**

- A. Application. Any pool owner wishing to operate a Swimming Pool in the City of Fishers shall make written application for a License to operate the Swimming Pool on forms approved by the Health Department. The application shall include the name and address of the owner, the location and type of proposed Swimming Pool, dimensions and volume of the pool(s), the signature of the owner, the names, addresses, and phone numbers of the PIC, the days and hours of operation, and any other information deemed necessary by the Health Officer. Application for licensure must be completed prior to all requests for inspection.
- B. Education. Each applicant must have its PIC participate in a certified pool operator's course or pass a test administered by the Health Department in order to demonstrate the requisite knowledge of operations prior to issuance of a license.
- C. Inspection. Each Swimming Pool for which a License is required under the provisions of this chapter shall be inspected as frequently as deemed appropriate by the Health Officer. Before approving an application for a License from any Swimming Pool who previously had its License suspended or revoked in accordance with sections 13 or 14 of this chapter, the Health Officer, or her designee shall inspect the Swimming Pool to determine compliance with this chapter. For all renewal License applications, the Health Officer may inspect the Swimming Pool before approving such application.
- D. Fee. The applicant shall pay a fee as required by §171.17
- E. The Health Officer shall promptly issue a License if (i) the applicant satisfied the conditions of this section, (ii) all rules of the Health Department, and (iii) the Swimming Pool is in compliance with this chapter and is designed, constructed, and equipped to be operated in a manner which protects public health. Any Permit issued by the Department between April 24, 2020 and the effective date of this ordinance is hereby void. A replacement Permit shall be issued by the Department, free of charge, to cover the duration of 2020.

#### **§171.07 LICENSE RESTRICTIONS.**

A Swimming Pool which has not held a required License to operate for a period of one year, or has had its License revoked by the Health Officer, shall be required to apply for a new License

before resuming operations and shall not be issued a License to operate unless it complies with all of the requirements of this chapter, including the construction, design, equipment, and sanitation requirements applicable to a new Swimming Pool. Upon change of ownership of a Swimming Pool, a new License to operate must be obtained from the Health Department prior to operating under the new owner. A License will not be issued to the new owner unless the Swimming Pool is in compliance with current codes and regulations.

**§171.08 SAMPLING AND TESTING.**

Bacteriological examination of all Swimming Pools must be completed prior to opening and at least once per week as prescribed by 410 IAC 6-2.1. Sample results must be submitted in writing to the Health Department within seven (7) days of sample collection. Every Swimming Pool shall be equipped with a chemical Test Kit. Tests for residual disinfectant and pH in the Swimming Pool shall be conducted not less than two (2) times per day and recorded on forms approved by the Health Department. These tests shall be conducted (i) prior to opening the pool and spa to swimmers and (ii) one other time later in the day when the pool is in use by swimmers. Tests for Alkalinity and Cyanuric Acid shall be conducted as necessary to maintain acceptable chemical balance but not less than once per week. Tests for Combined Chlorine shall be conducted at least twice per week.

Spa water shall be tested for pH and disinfectant residuals daily before the Spa is open for use and at least two (2) other times during the hours of spa use for the following: (i) Combined chlorine concentration, when chlorine is used, at least twice a week; and (ii) Total alkalinity at least once a week.

The Health Department recommends test for Calcium Hardness be conducted at least once per month. Results shall be recorded on the approved operating record forms. All such records shall be maintained for at least one year and shall be available for examination by the Health Officer.

**§171.09 ADDITION OF CHEMICALS.**

- A. The water chemistry and bactericidal chemical concentrations shall be maintained within the parameters promulgated by 410 IAC 6-2.1, as amended from time to time. All pools, when open for use, shall be continuously and automatically disinfected with a chemical that imparts an easily measured, free residual. A free residual of the disinfectant chemical shall be maintained throughout the pool at concentrations in accordance with the following:

*Required Disinfectant Levels*

POOL TYPE	CHLORINE		BROMINE	
	Minimum	Maximum	Minimum	Maximum
Wading pools	3.0 ppm	7.0 ppm	4.0 ppm	10.0 ppm
Spa pools	2.0 ppm	7.0 ppm	4.0 ppm	10.0 ppm
Waterslide plunge pools	2.0 ppm	7.0 ppm	3.0 ppm	10.0 ppm
Wave pools	2.0 ppm	7.0 ppm	3.0 ppm	10.0 ppm

All other pools	1.0 ppm	7.0 ppm	2.0 ppm	10.0 ppm
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*Required Levels of Other Chemical Parameters*

	Minimum	Maximum
pH	7.2	7.8
Cyanuric Acid*	N/A	60 mg/L
Alkalinity	80 mg/L	120ppm
Combined Chlorine	N/A	0.50 mg/L

**\* Cyanuric Acid shall not be used in any indoor pool**

- B. Where the concentrations of Combined Chlorine is greater than 0.50 mg/L (ppm), the Swimming Pool shall be Superchlorinated or otherwise treated in a manner to oxidize and diminish the concentration of Combined Chlorine. No harsh or irritating chemical shall be added manually and directly to the water of any Swimming Pool except under emergency conditions. Should it be necessary to add any such chemical in concentrated form directly into the water of any Swimming Pool, use of the Swimming Pool shall be terminated until such time as the chemical is dissolved completely in and is diffused thoroughly throughout the Swimming Pool. The broadcasting or manual application of chemicals to maintain a disinfectant residual or pH is prohibited except as may be required to Superchlorinate the Swimming Pool. Under no conditions may Superchlorination or manual adjustment of pH occur while the Swimming Pool is in use by swimmers. No swimmers should be allowed in the pool for at least one (1) hour after the manual addition of chemicals.

**§171.10 INSPECTIONS.**

The Health Officer may enter upon the Swimming Pool premises and other property of a person at all reasonable times for the purpose of inspecting the Swimming Pool, examining records maintained by the operator, and carrying out the requirements of this chapter upon producing proper credentials and identification. No person shall open or place in service any Swimming Pool without first obtaining a License for such cooperation from the Health Officer. An applicant for a new license shall notify the Health Officer, to request an initial inspection, at least one week prior to the anticipated opening. The Health Officer shall make the inspection within three (3) working days of the receipt of notice from the applicant but only after a minimum of one satisfactory bacterial sample is received by the Health Department. A minimum of one additional inspection will normally be completed during the Swimming Pool's regular operating season but inspections may be performed as often as necessary for the efficient and effective enforcement of this chapter.

**§171.11 REPORT OF INSPECTION.**

Whenever an inspection is made of a Swimming Pool, the findings shall be recorded on an approved inspection report form. The inspection report form shall summarize the violations of this chapter and shall set forth requirements for correction. A copy of the completed inspection report form shall be presented to the person(s) in charge of the Swimming Pool at the conclusion



of the inspection. The complete inspection report form constitutes an official notice of the inspection findings and an order of the Health Officer to correct all violations found.

### **§171.12 CORRECTION OF VIOLATIONS.**

The completed inspection form shall specify a reasonable period of time for the correction of the noted violations. Correction of all violations shall be accomplished within the period specified in accordance with the following provisions:

- A. If an Imminent Hazard is determined by the Health Officer to exist, the Swimming Pool shall immediately close to all swimmers and guests until the violation can be corrected. Operations shall not be resumed until authorized by the Health Officer.
- B. A Swimming Pool shall be closed for any of the reasons provided by 410 IAC 6-2.1-43 or 410 IAC 6-2.1-30(j), all as amended from time to time.
- C. All other violations of this chapter shall be corrected in accordance with the Fishers Swimming Pool Inspection Form and the following schedule:
  - i. Water quality. Corrective action required to commence immediately with compliance required within 24 hours.
  - ii. Water clarity. In accordance with 410 IAC 6-2.1-43(1)(c), the Swimming Pool shall be closed for failure to meet the water clarity requirements of section 410 IAC 6-2.1-31(a) or 410 IAC 6-2.1-42.1(b)(13).
  - iii. Disinfectant residual. In accordance with 410 IAC 6-2.1-30(c) and 410 IAC 6-2.1-43(1)(B), the Swimming Pool shall be cleared and kept free of bathers until disinfectant residuals are within the acceptable range.
  - iv. Circulation and filtration. Compliance required within 30 days if water quality is being maintained. If water-quality cannot be maintained, the Health Officer may order closure until repairs are completed. Moreover, the Swimming Pool shall be immediately closed if the pump or filters are not operational in accordance with 410 IAC 6-2.1-43(4).
  - v.
  - vi. Tests and records. Corrective action required to commence immediately with compliance required within ten days.
  - vii. Structures and fixtures. Compliance required within the number of days specified by the Health Officer dependent upon severity, but with compliance always required prior to renewal of the License.

- viii. Safety. Corrective action required to commence immediately with compliance required within the number of days specified by the Health Officer.
- ix. Signs and Enclosure. Compliance required prior to opening; replacements required within 30 days.
- x. Cleanliness. Compliance required within ten (10) days.
- xi. License. License to be obtained and posted prior to opening; if licensure cannot be demonstrated, then immediate closure is required until the License is obtained.

#### **§171.13 SUSPENSION OF LICENSE.**

- A. The Health Officer may, upon written notice without prior warning or hearing, suspend any License to operate a Swimming Pool for any of the following reasons:
  - i. In the opinion of the Health Officer, the operation constitutes an Imminent Health Hazard;
  - ii. Interference with the Health Officer in the performance of her duties;
  - iii. Failure to correct any specific violation on two (2) or more consecutive routine inspections; or
  - iv. Failure to comply with the correction schedule established by the Health Officer.
- B. The License shall be promptly reinstated when it has been verified by the Health Officer that the reason for suspension has been corrected. Suspension shall be for a period not exceeding 30 days. Whenever the License to operate a Swimming Pool is suspended, the licensee or the PIC shall be notified in writing that the License is, upon serving of the notice, immediately suspended. Opportunity for a hearing will be provided if a written request for a hearing is filed, by the licensee or the PIC, with the Health Officer. A hearing shall be afforded within twenty (20) days of receipt of the request. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The Health Officer shall end the suspension upon request of the licensee or PIC if the reason for the suspension no longer exists. If after thirty (30) days the suspension is still in place, the Health Officer shall conduct a hearing for license revocation.

#### **§171.14 LICENSE REVOCATION.**

- A. The Health Officer may, after providing opportunity for hearing, revoke a License for any of the following reasons:
  - i. Repeated violations of this chapter found in consecutive inspections;

- ii. Interference with the Health Officer in the performance of her duties; or
- iii. As a result of a license suspension which has exceeded thirty (30) days.

B. Before revocation, the Health Officer shall notify the licensee or the PIC, in writing, of the reasons for which such License is subject to revocation. The License shall be revoked at the end of ten (10) days following service of such notice unless a written request for a hearing is filed with the Health Officer within the ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the License becomes final.

#### **§171.15 SERVICE OF NOTICE.**

Any notice provided for in this chapter is properly served when it is delivered to the licensee or the PIC, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the licensee. A copy of the notice shall be filed in the records of the Health Department.

#### **§171.16 HEARINGS.**

- A. The hearings provided for in this chapter shall be conducted by the Health Officer at a time and place designated by the Health Officer. The Health Officer shall make a final finding based upon the complete hearing record and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the licensee, or to the PIC, by the Health Officer within ten (10) days of the hearing, if requested. The licensee and PIC shall immediately comply with an order or decision of the Health Officer. Should the Health Officer be unable to conduct a hearing or should she consider it in the best interest of the City of Fishers to do so, the Health Officer may, in her discretion, request the Fishers Board of Health conduct the hearing.
- B. In the event that the licensee or her authorized representative fails to attend any hearing, she shall be deemed to have accepted the decision of the Health Officer.
- C. In the event that the licensee or the PIC fails to abide by the hearing decision or written orders of the Health Officer, the Health Officer may furnish written evidence of the violation to the City Attorney for appropriate action against the licensee including enforcement action for violation of the provision of this chapter. The Health Officer may also furnish written evidence to the Hamilton County Prosecutor for prosecution for violation of the provisions of this chapter.

#### **§171.17 LICENSE FEES.**

- A. Application Fees. Licensee fees shall be charged prior to the issuance of a License in the City of Fishers. The fees shall be as follows:
  - i. Seasonal Pools: \$100;

- ii. Annual Pools: \$175
- iii. Annual Pools and Spas: \$175; and
- iv. Schools: Exempt

B. Renewal Fees. Each year, the holder of a valid license may apply for renewal. The fee for such renewal is the same as the applicable license fee provided in §171.17(A).

C. Additional Inspection Fees. For re-inspection due to violations, closures and revocations, an additional inspection fee in the amount of \$50 per inspection shall be paid by the operator. Schools are subject to this fee.

#### **§171.18 LICENSE FEE PENALTY.**

Any person found to be operating a Swimming Pool without a valid License shall be assessed a fine in the amount of \$100 per day. The Health Officer may not issue a License until the fines arising from this subsection are paid in full.

#### **§171.19 PLAN REVIEW.**

Prior to the construction, rehabilitation, or alteration of any Swimming Pool in the City of Fishers, a plan review fee of \$100 shall be paid to the Health Department. The plans and specification sheets stamped with the State of Indiana Plan Release shall also be submitted to the Health Officer for plan review. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed and non-fixed equipment and facilities. Failure to submit the appropriate plan review fee and construction plans prior to beginning construction, rehabilitation, or alteration may result in a stop work order.

#### **§171.20 MISCELLANEOUS.**

- A. In the event that any provision of this chapter is ultimately determined by a court of competent jurisdiction to conflict with any provision of 410 IAC 6-2.1 *et. seq.* or 675 IAC 20 *et. seq.*, then and in any such event, the more restrictive provision shall govern.
- B. In the event that any provision of this chapter is ultimately determined by a court of competent jurisdiction to be preempted by any state or federal law or regulation, this chapter shall automatically be deemed amended by eliminating the conflicting provision and incorporating in its place the applicable provision of the preempting state or federal law or regulation.

- C. Each provision of this chapter shall be constructed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.
- D. Compliance with the requirements of this chapter does not obviate or eliminate the necessity of complying with any other applicable federal, state, or local laws and regulations affecting Swimming Pools.

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