

CLAY COUNTY ORDINANCE 2015-5

The Clay County Board hereby ordains as follows:

TITLE: This Section shall be known as the Clay County Public Swimming Pool and Spa Ordinance.

REPEALER: Clay County Ordinance 2011-3, Part I, Subpart D is hereby repealed in its entirety. The following shall be incorporated in the appropriate chapter of the Clay County Code in its place.

Section I: PURPOSE.

1.1 Purpose. This Ordinance is enacted to establish standards for the regulation of public swimming pools and spas to protect the health, safety, and general welfare of the people of Clay County pursuant to powers granted under Minnesota Statutes and subsequent recodifications and/or amendments and other applicable legislation, as may be adopted from time to time.

1.2 Objectives. The principal objectives of this Ordinance are as follows:

- A. To provide local governance to promote health, safety, and wellness to citizens and patrons of public swimming pools and spas.
- B. To correct and prevent conditions that may adversely affect persons utilizing public swimming pools and spas.
- C. To provide and enforce standards for the operation, and maintenance of public swimming pools and spas following requirements set forth by adopted legislation and this ordinance.
- D. To provide education to public swimming pools and spas workers and operators on risk factors contributing to health and safety issues.
- E. To meet consumer expectations of the health and safety of public swimming pools and spas.

Section II: SCOPE.

The scope of this ordinance applies to public swimming pools and spas within the jurisdiction of the Health Authority and as described in Minnesota Statutes Chapter 144.1222 and Minnesota Rules Chapter 4717.0250 subp. 8 through subp. 10 and Chapter 4717.0250 subp. 12.

Section III: DELEGATED AUTHORITY.

Promulgated in Minnesota Statutes Chapter 145A.07, the commissioner of health has entered into an agreement with Clay County, a member of the Partnership 4 Health community health

board, to delegate all or part of the licensing, inspection, reporting, and enforcement duties authorized under 145A.04, subdivision 6 and MN Statutes Chapter 157.

SECTION IV: STATE HEALTH DEPARTMENT RULES ADOPTED.

Pursuant to Minnesota Statutes 375.51 - 375.55, Minnesota Rules Chapter 4717.0150 - 4717.3970 excluding 4717.0310 and 4717.0450, Minnesota Statutes Chapter 157, and Minnesota Statutes Section 144.1222 pertaining to the Abigail Taylor Pool Safety Act, including all subsequent amendments thereto, are hereby adopted by Clay County by reference. Reference in 4717.0150 - 4717.3970 and Minnesota Statutes Chapter 157 to Board, Commissioner of Health, or Board of Health shall be to the Clay County Board of Commissioners and their authorized representatives except as they relate to plan review and the issuance of variances.

SECTION V: DEFINITIONS.

For the purpose of this ordinance the following words shall have the following meaning:

5.1 Definitions of words, phrases, and terms used in this Ordinance shall be those set forth in Minnesota Rules, Chapter 4717, Minnesota Statutes Chapter 157, Clay County Administrative Ordinance 2010-3 Part 2, and this section.

Subsection 1: "County" shall mean Clay County.

Subsection 2: "Health Authority" shall mean the Clay County Public Health Department and its designated employees, agents, or contractors, as the Clay County Board may designate.

Subsection 3: As stated in Minnesota Statutes Chapter 144.1222 subd. 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; or (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).

Subsection 4: As stated in Minnesota Rules Chapter 4717.0250 subp. 9, "Spa pool" means a hot water pool intended for seated recreational use with a water agitation system in addition to the recirculation system. Spa pool is synonymous with the term "whirlpool."

Subsection 5: As stated in Minnesota Rules Chapter 4717.0250 subp. 10, "Special purpose pool" means a pool intended to accommodate a use other than normal swimming, diving, or

wading. A special purpose pool includes, but is not limited to, spa pools, pools used for water therapy, dedicated plunge pools, flume water slides, and wave pools.

Subsection 6: As stated in Minnesota Rules Chapter 4717.0250 subp. 12, "Wading pool" means any pool with a maximum depth of 24 inches used or designed to be used exclusively for wading.

Section VI: ADMINISTRATION.

6.1 Administrative Ordinance. Except where otherwise specified, this Ordinance is subject to all provisions of Clay County Administrative Ordinance 2010-3 Part 2.

6.2 License Required. It is unlawful for any person to operate or permit the operation of a public swimming pool or spa, in Clay County regardless of whether a fee is charged for such use, unless the County has issued a valid license from the Health Authority which is in full force and effect. Licensing of public swimming pool or spa shall be done pursuant to Clay County Administrative Ordinance 2010-3 Part 2 and active Resolution. Only a person who complies with the provisions of this ordinance(s) and resolution(s) applicable thereto within the jurisdiction in which the public swimming pool or spa is located shall be entitled to receive a license.

6.3 General Licensing. The application for such licenses as described in this Ordinance shall be made on forms furnished by the Health Authority and shall describe the general nature of the business, the location, and any other information deemed necessary by the Health Authority.

6.4 Fees. Fees for licenses, late fees, and service fees as shown in the fee schedule, issued hereunder shall be those established by an active resolution of the Clay County Board of Health.

6.4 License Expiration. Licenses issued pursuant to this Ordinance shall commence and expire on the dates indicated on the license certificate. All public swimming pool or spa licenses shall be issued for the applicable license year.

6.5 Transfer and Display of License. A license shall not be transferable as to person or place. A valid, original license certificate issued from the Health Authority shall be located onsite and posted so that it is clearly visible to the public.

SECTION VII: INSPECTION OF PUBLIC SWIMMING POOLS AND SPAS.

The Health Authority shall inspect every public swimming pool and spa as frequently as deemed necessary or pursuant to Minnesota Statutes 157.20 to ensure compliance with this ordinance.

7.1 Access to Premises and Records. The person in charge of the establishment shall, upon request of the Health Authority and after providing proper Clay County identification, permit

access to all parts of the establishment at any reasonable time for the purpose of inspection as often as deemed necessary by the Health Authority.

7.2 Interference with Health Authority. No person shall interfere with or hinder the Health Authority in the performance of its duties, or refuse to permit the Health Authority to make inspections of the establishment.

7.3 Removal and Correction of Violations. The licensee, owner, or operator of the establishment, upon receipt of a report giving notification of one or more violations of this Ordinance, shall correct or remove each violation in the length of time determined by the Health Authority. The length of time for the correction or removal of each such violation shall be noted on the inspection report provided by the Health Authority to the establishment. Failure to remove or correct each violation within the specified time period may constitute a separate violation of this Ordinance and further action by the Health Authority. The Health Authority may issue orders to halt construction or remodeling, or to take corrective measures to ensure compliance with this Ordinance.

SECTION VIII: CONSTRUCTION AND PLAN REVIEW.

8.1 Plan Submission. All plans and specifications to construct, alter, or remodel a public swimming pool or spa shall be submitted to the Minnesota Department of Health for review and approval.

8.2 Approval Required. The Health Authority shall inspect or oversee the swimming pool or spas as frequently as deemed necessary during construction. The Health Authority shall conduct a final inspection in conjunction with the Minnesota Department of Health prior to the start of operations and issuance of an approved license. The jurisdiction shall not issue a building permit for an establishment or remodeling or alteration permit for such an establishment until the Minnesota Department of Health has approved such plans.

Section IX: GROUNDS FOR EMERGENCY CLOSURE.

9.1 Grounds for Emergency Closure. If any of the following conditions exist, the operator may be ordered to discontinue or close all operations of the swimming pool or spa until such time as the Health Authority confirms the correction of the violation:

- A. Failure to possess a current license required by this Ordinance;
- B. Evidence of a sewage backup in proximity to or related to operations of the public swimming pool or spa;
- C. Lack of potable water related to operations of the public swimming pool or spa;
- D. Acceptable toilet facilities are not present, sanitary, easily accessible, or operational to patrons of the public swimming pool or spa;

- E. Evidence or suspect of an ongoing illness associated with the operation of the public swimming pool or spa;
- F. Significant damage to the establishment operation due to tornado, fire, flood, or other disaster;
- G. Evidence of an infestation of rodents or other vermin;
- H. Failure to demonstrate knowledge by the certified pool operator to the Health Authority relating to healthy, safe, and secure operations of the public swimming pool or spa;
- I. Any violation or combination of violations as specified in MN Rules Chapter 4717.3970 or as deemed by the Health Authority to be an immediate or potentially serious health, safety, or security concern to patrons of the public swimming pool or spa.
- J. Anytime a public health nuisance, as defined in Minnesota Statutes, Section 145A.02 subdivision 17, exists.

Section X: VARIANCES.

As described in the delegation agreement, the Minnesota Department of Health retains exclusive authority for reviewing and granting variances, as provided in Minnesota Rules, parts 4717.7000, subpart 1(F).

SECTION XI: PENALTY.

11.1 Penalty. Any person violating a provision of this ordinance shall be guilty to a misdemeanor and upon conviction thereof shall be punished pursuant to Clay County Ordinance 2010-3 Part 2.

11.2 Citations. Whenever the Health Authority discovers a violation of this Ordinance, a citation may be issued to the person alleged to have committed the violation. The citation shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

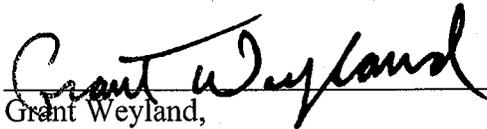
11.3 Re-inspection. If violation(s) found during an establishment inspection are deemed a potential public health or safety risk, a re-inspection of the establishment may be performed by the Health Authority. A re-inspection service fee, as defined in resolution, may be assessed to a licensed establishment after a re-inspection is completed.

Section XII: SEPARABILITY.

If any provision or application of any provision of this Ordinance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance.

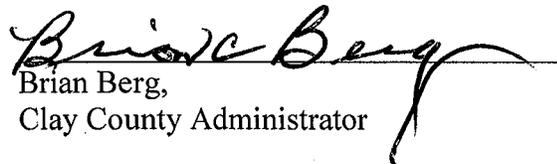
EFFECTIVE DATE: After passage by the Clay County Board of Commissioners, this Ordinance shall be effective the date of enactment.

Adopted by the Clay County Board of Commissioners this 14 day of July, 2015.



Grant Weyland,
Chairman, Clay County Board of Commissioners

ATTEST:



Brian Berg,
Clay County Administrator