

Regulation of the Winthrop Board of Health on the Operation of Public and Semi-Public Swimming Pools

Section 1. Statement of Purpose

The Winthrop Board of Health is responsible for the protection of the public and environmental health and welfare within the Town of Winthrop. In an effort to protect the public, the following regulation is promulgated to supplement those set forth in 105 CMR 435.00, et seq.

Section 2. Authority

This regulation is adopted under the authority of Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

Applicability. This regulation shall apply to all public and semi-public pools regulated under 105 CMR 435.00.

Citation. This regulation may be cited as "Swimming Pools Regulation".

General.

Chapter V of the State Sanitary Code, 105 CMR 435.00, is adopted as a local regulation in its entirety.

Amendments to this regulation shall take effect upon publication of a notice of their adoption in a local newspaper.

Section 3. Definitions

As used in this regulation, the following words shall have the following meanings unless the context clearly requires otherwise:

Private Swimming Pool means any pool which is used or intended to be used as a swimming pool in connection with a single- or two-family residence and available only to the family of the household and its private guests shall be classified as a private swimming pool.

Any swimming pool other than a private swimming pool shall be classified as a public or semi-public swimming pool.

Public Pool means every swimming, wading or special purpose pool, admission to which may be gained by the general public with or without the payment of a fee.

Semi-Public Pool means a swimming, wading or special purpose pool on the premises of, or used in connection with a hotel, motel, trailer court, apartment house, condominium, country club, youth club, school, camp, or similar establishment where the primary purpose of the establishment is not the operation of the swimming facilities, and where admission to the use of the pool is included in the fee or consideration paid or given for the primary use of the

premises. Semi-public pool shall also mean a pool constructed and maintained by groups for the purposes of providing bathing facilities for members and guests only.

Section 4. Lifeguards

All "Public Pools" and "semi-public pools" as defined in 105 CMR 435.01, shall have a trained, certified lifeguard in attendance in the pool area at all times the pool is in use if the Board of Health determines that they are necessary for the safe use of the swimming or wading pool. Said lifeguards shall be trained and certified as required by 105 CMR 435.23.

The number of required lifeguards shall be determined as follows:

One lifeguard per 25 people in the pool.

Size, shape, and capacity of pool or wading area.

The Board of Health may require more lifeguards when it deems it necessary.

Pools located in residential condominiums or apartment complexes, or hotels or motels; either indoors or in a locked, fenced area, with access limited to residents and a limited number of their personal guests when accompanied by a resident, are not exempt.

Any semi-public pool which is not required by the Board of Health to have a lifeguard, must, in the alternative comply with 105 CMR 435.23, and at the minimum, abide by the following safety regulations:

A warning sign shall be posted in a conspicuous location and shall state "WARNING-NO LIFEGUARD ON DUTY" in easy to read, legible letters which are at least four inches (ten cm) high. In addition, there shall be signs which are readily visible stating "CHILDREN UNDER AGE 16 SHOULD NOT USE SWIMMING POOL WITHOUT AN ADULT IN ATTENDANCE" and "ADULTS SHOULD NOT SWIM ALONE."

No children under sixteen years old shall be allowed at the pool area without the supervision of an adult 21 years old or older who can safely swim, and who is physically capable of assisting a child in the pool and physically present in the pool area;

No alcohol shall be allowed on the pool grounds, unless sold by permit at the same establishment;

No glass containers shall be allowed on the pool grounds;

A written emergency protocol plan must be adopted, and made available to the Board of Health and to all who use the pool;

A system of monitoring and enforcement of the regulation must be in place and must be reported in writing to the Board of Health.

A person must be designated as responsible for the monitoring and enforcement system described above, and the Board must be notified who that person is.

A telephone must be available for emergency purposes in the pool area and said telephone must be available for use to staff and to the public during all hours of operation without any fee.

No wheeled vehicles shall be allowed in the pool area, including but not limited to roller blades, bicycles, scooters, skateboards, or children's riding toys. Baby carriages are allowed when under the immediate control of an adult 18 years or older who is physically present in the pool area. No running, wrestling, boisterous or rough play, or excessive noise shall be allowed in the pool area.

Section 5. Permit

No Public or Semi-Public Swimming or Special Purpose Pools shall be used without the benefit of a permit for operation being issued by the Board of Health.

Any permit issued for the operation of a pool under this regulation shall be subject to the conditions of permitting outlined in 105 CMR 435.21.

Said Operating Permit may not be issued unless the pool being permitted meets all applicable local and state regulations. Said Permit may be revoked or suspended for failing to comply with applicable local and state regulations.

The Board or its Health Agents shall have the authority to place special conditions on any permit issued under these regulations.

Section 6. Variance

This regulation may be varied by the Board of Health upon written application for such, and the completion of a public hearing.

In order for the variance to be approved, the applicant must:

Demonstrate that the enforcement of the applicable provision or regulation would do manifest injustice and

Demonstrate that the same degree of protection required under 105 CMR 435.00 can be achieved without strict application of the particular regulation.

Another aspect of 105 CMR 435.46 shall be met when seeking a variance, except that when a variance is sought only from the local regulation, no approval from the Massachusetts Department of Public Health is required.

The Board may place special conditions on any variance approval issued.

Section 7. Penalties

Anyone found in violation of this regulation, including any provisions of 105 CMR 435.000 may be fined no less than Fifty Dollars (\$50) and no more than Five Hundred Dollars (\$500) for each violation and each successive day each violation exists shall constitute a separate offense.

Anyone found to operate or maintain a swimming, wading or special purpose pool without the unexpired and unrevoked written permission of the Board of Health shall be fined not less than Two Hundred and Fifty Dollars (\$250) and not more than Five Hundred Dollars (\$500).

Any Operating Permit may be revoked or suspended for failing to comply with applicable local and state regulations.

This Regulation may be enforced through the use of Non-Criminal Citations as put forth in M.G.L c. 40 § 21D.

Section 8. Severability

If any provision of this Regulation is declared invalid or not enforceable, the other provisions shall not be affected thereby, but shall continue in full force and effect.

Section 9. Effective Date

This regulation shall take effect January 1, 2023.

Bell Shurt

12/13/2022

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12/13/22

Jim Hill

12/13/22