

**CITY OF NEW ALBANY COMMON COUNCIL  
AN ORDINANCE ESTABLISHING SWIMMING POOL REGULATIONS**

WHEREAS, the City of New Albany Common Council has deemed it necessary to pass a new ordinance as requested by the Floyd County Health Department; and

WHEREAS; the Common Council is the legislative body for the City of New Albany; and

WHEREAS, IC 36-1-3-6 states that there is no constitutional or statutory provision requiring a specific manner for exercising a power, the City of New Albany may adopt an ordinance prescribing a specific manner for exercising a power; and

WHEREAS, IC 16-20-1-19 authorizes and empowers the Floyd County Health Officer by and through the staff of the Floyd County Health Department to enforce the Indiana State Department of Health swimming pool rules as promulgated at 410 IAC 6-2.1-1 et seq; and

WHEREAS, the City of New Albany Common Council is desirous of authorizing and empowering the Floyd County Health Officer by and through the staff of the Floyd County Health Department to implement enforcement of the Indiana State Department of Health Swimming Pool Rules.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED THAT:

There should be and this is hereby established that this ordinance is to be entitled "Swimming Pool Rules" and to read as follows:

**Section 1. DEFINITIONS**

The definitions contained in 410 IAC 6-2.1-1 et seq are adopted herein and made a part hereof. The following additional definitions shall apply to the interpretation and enforcement of this ordinance.

- a. Certified Pool Operator – Certified Pool Operator ("CPO") or Certified Pool Technician ("CPT") means someone who has passed the certified pool-spa operator test by the National Swimming Pool Foundation or Aquatic Training Institute.
- b. Health Officer – the term "Health Officer" shall mean the Floyd County Health Officer, or his authorized representative.

**Section 2. MINIMUM OPERATING REQUIREMENTS FOR POOLS AND SPAS**

All persons owning or operating a public pool or semi-public pool in Floyd County shall comply with the minimum sanitation and operation requirements specified by the Indiana State Board of Health as now provided in 410 IAC 6-2.1 or as the same may be hereafter changed or amended. Such regulation and any changes and amendments thereto which may be hereafter adopted or promulgated are by reference incorporated herein and made part hereof, two copies of which are on file in the Office of the Floyd County Health Department, for public inspection.

Each public pool or semi-public pool facility shall have at least one employee who is a Certified Pool Operator (CPO) or if a third-party service company provides routine maintenance, the outside service technician must be a CPO. Any individual who makes changes to the water quality, or performs routine maintenance of the swimming pool/spa system components, must also be a Certified Pool Operator.

### Section 3. PERMIT AND FEE REQUIREMENTS

a. Permit – It shall be unlawful for any person to operate a public/semi-public swimming pool, wading pool, spa, or hot tub in Floyd County, Indiana, who does not possess a valid permit from the Health Officer. Such permit shall be posted in a conspicuous place on the premises of such swimming pool, wading pool, spa, or hot tub. Only persons who comply with the applicable provisions of the ordinance shall be entitled to receive and retain such a license. Such permits shall be for a term of one (1) year, to be renewed annually on or prior to April 30. Any permit issued by the Health Officer shall contain the name and address of the person to whom a license is issued and such other data as the Health Officer deem necessary.

b. Permit Fees- Public/Semi-public swimming pools, wading pools, spas or hot tubs operating less than 6 months per year shall pay to the Floyd County Health Department, a license fee of thirty dollars (\$30.00) per pool, spa wading pool, hot tub, etc., each year, submitted with the initial or annual permit renewal application, due on or before April 30. All license fees shall be payable on or before April 30, and shall be subject to the addition of a late penalty charge of thirty dollars (\$30.00) per pool, if submitted after the permit expiration date of that year. Public/Semi-public swimming pools, wading pools, spas and hot tubs operating year round, or for periods of 6 months or longer in Floyd County shall pay the Floyd County Health Department, a permit fee of sixty dollars (\$60.00) each year per pool, spa, wading pool, hot tub etc. All license fees shall be payable on or before April 30, and shall be subject to the addition of a late penalty charge of sixty dollars (\$60.00) per pool, if submitted after the permit expiration date of that year. Tax supported units of government and schools shall be exempt from the payment of the above-described fees.

### Section 4. INSPECTION OF POOLS AND SPAS

a. Authority to inspect and to copy records – the person operating or owning any public pool, semi-public pool and/or spa in Floyd County shall, upon the request of the Health Officer, permit such Health Officer of his authorized representative access to all pool and/or spa facilities and shall permit the Health Officer or his authorized representative to collect evidence and/or exhibits and to copy any and all records relative to the enforcement of this ordinance.

b. Inspection of facilities – the Floyd County Health Officer and/or his designated representative shall implement a regular program of inspecting facilities permitted under this ordinance. If upon such an inspection, the Health Officer or his designated representative finds that the permitted facility is violating any of the provisions of this ordinance, then and in that event, the Health Officer or his designated representative may promptly issue a written order to the permittee of such facility to appear at a certain time, no later than ten (10) days from the date of the second inspection, and at a place in Floyd County fixed in said notification to show cause why the permit issued under the provision of this ordinance should not be revoked. The Health Officer upon such hearing if the permittee should fail to show cause, shall revoke said permit and promptly give written notice of such action to the permittee. The Health Officer shall maintain a permanent record of his proceedings filed in the Office of the Floyd County Health Department.

c. Suspension of permit – any permit issued under this ordinance may be temporarily suspended by the Health Officer without notice of hearing for a period not to exceed thirty (30) days, for any of the following reasons pursuant to 410 IAC 6-2.1-43:

1. Unsanitary or other conditions which in the Health Officer's opinion endanger the public health;
2. Interference with the Health Officer or any of his authorized representatives in the performance of their duties;

Provided, however, that upon written application from the permittee, served upon the Health Officer with fifteen (15) days after such suspension, the Health Officer shall conduct a hearing upon the matter after giving at least five (5) days written notice of the time, place and purpose thereof to the suspended permittee; provided further, that any such suspension order shall be issued by the Health Officer in writing and served upon the permittee by leaving a copy at his usual place of business or by delivery of certified or registered mail to such address. Any person whose permit has been suspended may at any time make application to the local Health Officer for the reinstatement of his permit.

#### Section 5. PENALTIES

a. Upon finding a violation of this ordinance, the violator shall be punished for the first offense by a fine of not more than Five Hundred Dollars (\$500.00); for the second offense by a fine of not more than One Thousand Dollars (\$1,000.00); and for a third offense and each subsequent offense by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00). Each day of operation of a permitted facility in violation of this ordinance or after the expiration of the time limit for abating unsanitary conditions or in completing improvements or any other violations as described in 410 IAC 6-2.1-1 et seq to abate such conditions as ordered by the Health Officer shall constitute a distinct and separate offense.

#### Section 6. EFFECTIVE DATE

This ordinance shall become effective on the 1/7, 2013.

SO ORDAINED by this Common Council of the City of New Albany, Indiana, this 7<sup>th</sup> day of January, 2013.

**COMMON COUNCIL OF THE  
CITY OF NEW ALBANY, INDIANA**

  
Pat McLaughlin, President

Attested by:

Vicki Glotzbach

Vicki Glotzbach,  
New Albany City Clerk

**CERTIFICATE OF PRESENTATION TO MAYOR**

The undersigned hereby certifies that on the 18<sup>th</sup> day of January, 2013, the above Ordinance was PRESENTED by me, as the duly elected Clerk of the City of New Albany, Indiana, to the Mayor of the City of New Albany, Indiana.

Vicki Glotzbach

Vicki Glotzbach,  
New Albany City Clerk

**APPROVAL BY MAYOR**

The undersigned, as of this 31<sup>st</sup> day of January, 2013, and as the duly elected Mayor of the City of New Albany, Indiana, hereby APPROVES the above Ordinance as authorized by the provisions of IC 36-4-6-16 and as evidenced by my signature affixed below.

Jeff Gaman

JEFF GAMAN, Mayor of the City of New Albany, Indiana

Attested by:

Vicki Glotzbach

Vicki Glotzbach,  
New Albany City Clerk