

**ARTICLE VII. - PUBLIC SWIMMING POOLS AND BATHING PLACES**

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**Sec. 62-211. - Findings.**

The Board of County Commissioners hereby makes the following findings:

(a) It is recognized that in Sarasota County in recent years there has been rapid growth in tourist and resident populations with a resulting great increase in the number of recreational facilities and their use in Sarasota County, including public swimming pools, water attractions and bathing places.

(b) Insufficient and inefficient planning and operation of sanitation and safety equipment in connection with public swimming pools and bathing places in Sarasota County constitute a threat to the public health and safety. Therefore, it is deemed necessary by the Board of County Commissioners of Sarasota County to establish and enforce these regulations governing the construction and operation of public swimming pools, water attractions and bathing places in Sarasota County.

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(c) Sarasota County and the municipalities will provide and maintain Gulf water beaches for the enjoyment of vacationers and residents. The Health Department shall provide beach water quality surveillance and sampling for Sarasota County beaches listed in the Florida Healthy Beaches Program. There are national and state standards for recreational Gulf water quality.

(Ord. No. 89-064, § 1, 7-11-1989; Ord. No. 98-023, § 1, 3-17-1998; Ord. No. 2005-011, § 2, 1-12-2005)

**Sec. 62-212. - Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article:

*Board:* The Board of County Commissioners of Sarasota County, Florida.

*Director:* The Director of the Sarasota County Health Department or his authorized representative.

*Facility:* A Public Swimming Pool, Bathing Place or Marine Water Beach as the context requires.

*Health Department:* The Sarasota County Health Department.

*Healthy Beaches:* Beaches that meet the State's definition and criteria and are listed in the State of Florida Healthy Beaches Program.

*Management:* Includes anyone who conducts, directs the affairs and carries out the operations of a public swimming pool or public bathing place, either for his own interest or that of an owner and includes those responsible for operation and supervision.

*Marine Water Beaches:* Only those marine water beach areas provided, regulated and regularly maintained by Sarasota County or other municipality for recreational use by the general public. Public access strips of less than 150 feet wide shall be exempt from the requirements of the ordinance.

*Private Pool or Bathing Place:* Means a facility used only by an individual person and his family or house guests and shall not include any type of cooperative housing or joint tenancy of five or more families. Any of such facilities located at a motel, hotel, apartment house, condominium, mobile home parks, camp or mobile home subdivision shall not be a private facility for the purpose of this article.

*Public Swimming Pool:* A public swimming pool or public pool shall mean a conventional pool, spa type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of fee and includes, but is not limited to, pools operated by, or serving camps, churches, cities, clubs, counties, health spas, institutions, parks, state agencies, schools, subdivisions, or cooperative living type projects of five or more living units, such as apartments, boarding houses, condominiums, hotels, mobile home parks, motels, recreational vehicle parks and

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trailer parks. The inclusion in the definition of "public swimming pool" of those pools serving five or more living units where the living units are predominately of individual or family ownership and occupancy or group ownership (such as in a multiple housing unit or condominium) is for the protection of the health and safety of the pool patrons under provisions of F.S. ch. 514, and shall not be construed to mean that such pools are open to use by the general public. However, private pools and water therapy facilities connected with hospitals, medical doctor's offices and licensed physical therapy establishments shall be exempt from supervision.

All other terms used in this Ordinance shall be construed as having the same meaning as that given such terms in F.S. ch. 514, and Chapter 64E-9 of the Florida Administrative Code, as the same may be amended from time to time, unless otherwise provided herein.

(Ord. No. 89-064, § 2, 7-11-1989; Ord. No. 98-023, § 2, 3-17-1998; Ord. No. 2005-011, § 3, 1-12-2005)

**Sec. 62-213. - Construction and operation standards.**

(a) Except to the extent that it is herein strengthened or extended by the other provisions of this Ordinance, Chapter 64E-9 of the Florida Administrative Code and F.S. Ch. 514, as the same may be amended from time to time, are hereby adopted. Compliance with all provisions of said Chapter 64E-9 and any amendments thereto is required hereby as if said chapter were herein set forth in full.

(b) The exemptions contained in F.S. § 514.0115(2)(a) and (b), as they may be amended from time to time, relating to pools serving condominiums or cooperative units do not apply within Sarasota County; provided, however, such pools existing as of February 22, 2011, shall not be required to have collector tanks as long as the pool is in compliance with the Virginia Graeme Baker Pool and Spa Safety Act, 15 USCA 8001 et seq., as may be amended from time to time. All pool safety devices must be installed by a licensed pool contractor who shall certify as to the functionality of the device. The device shall be inspected annually by a pool contractor and an inspection report filed with the Health Department attesting to the continuing functionality of the device.

(Ord. No. 89-064, § 3, 7-11-1989; Ord. No. 98-023, § 3, 3-17-1998; Ord. No. 2005-011, § 4, 1-12-2005; Ord. No. 2011-003, § 2, 2-22-2011)

**Sec. 62-214. - Public swimming pools and bathing places Health Department permits and approval.**

No person shall operate a public swimming pool or bathing place without first obtaining and maintaining a valid permit for such operation from the Health Department.

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- (a) All facilities that choose to be exempt from State operating requirements under F.S. § 514.0115(2) and (3), will obtain a County Operating Permit. The County Operating Permit shall be issued for a period of one year. Thereafter, the owner, operator or agent shall apply for renewal annually prior to July 1 of each calendar year. Failure to renew the annual operating permit may result in fines and/or closure of the facility. The Health Department shall renew the permit if the facility continues to meet the standards of this ordinance. The operating permit shall be posted on the premises in a conspicuous place. Permits shall not be transferable from one person, firm, or corporation, to another, or from one physical location to another physical location.
  - (b) The fee for such regulation shall cover the administrative cost of permitting, inspections and the cost of maintaining a bacteriological sampling program.
  - (c) It shall be unlawful for any person to begin construction, alteration or modification of any public swimming pool without first having received written approval from the Health Department.
  - (d) Properties and adjacent properties operating as a single business which contain a total of five or more living units shall obtain and maintain a valid operating permit for any facility(ies) located on those properties.
  - (e) Beaches listed in the Florida Healthy Beaches Program shall be subject to sanitary surveys, inspections, and bacteriological water quality sampling as required by the Sarasota County Health Department.
- (Ord. No. 89-064, § 4, 7-11-1989; Ord. No. 98-023, § 4, 3-17-1998; Ord. No. 2005-011, § 5, 1-12-2005)

**Sec. 62-215. - Testing and water quality.**

- (a) Water samples for testing to show the bacteriological and chemical quality of the water in public swimming pools shall be collected by the Health Department during each calendar quarter or more often if deemed necessary.
- (b) Water samples for testing to show the bacteriological quality of water at public bathing places shall be collected by management and results submitted to the Health Department each month or more often if necessary. Sample results shall be submitted no later than the tenth day of the following month to the Health Department.
- (c) Bacteriological Standards:
  - (1) *Public Pools:* Public pool water shall be free of coliform bacteria contamination.

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(2) *Public Bathing Places:* Public bathing place waters shall meet the standards of [F.A.C. §] 64E-9.013(4).

(3) *[Water Sample Results:]* Water sample results that do not meet the standards of [F.A.C. §] 64E-9.013(4) shall be reported to the Health Department by management within 48 hours of being notified.

(4) *Marine Water Beaches:* The waters at marine water beaches shall meet the following standards:

a. Enterococcus counts per 100 ml shall not exceed the geometric mean of 34 colony forming units (*cfu*) for five consecutive sampling periods or exceed 103 *cfu* in any single confirmed sample.

b. Fecal coliform counts per 100 ml shall not exceed 399 *cfu* in any single confirmed sample.

(d) Chemical Standards:

(1) *Public Pools:* Public pool water shall meet the requirements of [F.A.C. §] 64E-9.004(1).

(2) *Public Bathing Places:* Public bathing place water shall meet the requirements of 64E-9.013(3)(b).

(Ord. No. 89-064, § 5, 7-11-1989; Ord. No. 98-023, § 5, 3-17-1998; Ord. No. 2005-011, § 6, 1-12-2005)

**Sec. 62-216. - Operating certification for pool operators and pool service contractors.**

(a) All public swimming pools must be maintained by a certified operator. In order to maintain acceptable sanitary conditions in the operation of public swimming pool and to minimize the possibility of a waterborne disease outbreak, an employee, resident, owner, or pool service employee, who is directly responsible for pool operation, shall be required to complete a course of instruction and training conducted or approved by the Health Department in basic pool water chemistry, filter system operation and maintenance, and general swimming pool sanitation. The Health Department shall administer a written examination following the completion of such course, and if the trainee shall successfully pass such written examination, the Director shall issue a certificate of competency, which shall be valid for a three-year period or until suspended or revoked. Upon expiration of the three-year effective period of the certificate of competency, each holder thereof shall be required to complete a refresher course approved by the Health Department. Upon the completion of the refresher course and the successful passing of written examination, a new certificate of competency shall be issued for a succeeding three-year period. The fee for such a course shall be as authorized and required by the Board.

(b) All licensed commercial contractors engaged in pool service and their employees actively engaged in public swimming pool operation and maintenance are required to obtain operator certification as approved by the Health Department.

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(c) The person directly responsible for pool operations shall have certification, or copy thereof, posted in full public view at the pool site.

(d) This course will be offered a minimum of four times each year by the Health Department.

(e) An active certificate of competency can be suspended or revoked by the Director after due process under County Ordinance No. 93-06, Special Master.

(Ord. No. 89-064, § 6, 7-11-1989; Ord. No. 98-023, § 6, 3-17-1998; Ord. No. 2005-011, § 7, 1-12-2005)

**Sec. 62-217. - Administration and enforcement procedure.**

(a) It shall be the responsibility of the Health Department to enforce the provisions of this Ordinance within Sarasota County. The Health Department shall inspect all public swimming pools and bathing places within Sarasota County, and if a violation of any provision of this article, F.S. Ch. 514, or Chapter 64E-9 of the Florida Administrative Code, as they may be amended from time to time, is determined to exist, the Health Department shall give the operator of such facility a reasonable time following the receipt of written notice thereof, within which to correct such violations. Should the violation(s) continue beyond the time specified for correction by the official notice, enforcement procedures shall be as specified in Article VIII of the Sarasota County Code of Ordinances, Code Enforcement.

(b) If, in the opinion of the Health Department, based upon competent substantial evidence, conditions of a public swimming pool or bathing place represent a clear and present danger or an immediate threat to the life or health of the patrons, guests or employees, the facility shall be ordered closed by the Health Department. The Department shall have the authority to post the facility closed. The public swimming pool or bathing place shall remain closed for use until, in the opinion of the Health Department, the dangerous condition has been removed and the facility fully complies with all of the provisions of this article.

(c) Any public swimming pool that has been posted due to unsatisfactory water quality or a safety hazard shall remain closed until authorization to reopen said pool has been obtained from the Health Department.

(d) If a violation(s) is (are) not corrected or the public swimming pool or bathing place continues to operate without a valid permit after proper notification, as specified in Section 62-217(a) above, the Health Department may seek enforcement through the Sarasota County Code Enforcement process to require compliance with this article and/or seek injunctive or other relief in circuit or criminal court.

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(Ord. No. 89-064, § 7, 7-11-1989; Ord. No. 98-023, § 7, 3-17-1998; Ord. No. 2005-011, § 8, 1-12-2005)

**Sec. 62-218. - Penalties.**

Violations of this article are governed by Article VIII, Section 2-349, Sarasota County Code of Ordinances. Criminal violations shall be treated as a misdemeanor and any person found guilty of violating same shall, upon conviction thereof, be punished by a fine not to exceed \$500.00 and/or by imprisonment in the County jail not to exceed 60 days. Each day or fraction thereof that the violation continues shall be considered as a separate offense.

(Ord. No. 89-064, § 8, 7-11-1989; Ord. No. 98-023, § 8, 3-17-1998; Ord. No. 2005-011, § 9, 1-12-2005)

**Sec. 62-219. - Applicability.**

This article shall be applicable in both the unincorporated and incorporated areas of Sarasota County to the extent that such municipality has not enacted an ordinance which conflicts with any of the provisions of this article. Should any section of this article conflict with any municipal ordinance on the same subject, the municipal ordinance shall control provided that the remaining sections of this article shall remain in full force and effect in the municipality. The provisions of this ordinance shall not apply to private swimming pools, private bathing places or private beaches.

(Ord. No. 89-064, § 9, 7-11-1989; Ord. No. 98-023, § 9, 3-17-1998; Ord. No. 2005-011, § 10, 1-12-2005)

**Sec. 62-220. - Variances.**

(a) *Procedures.* When a variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in extreme hardship on a public pool owner, the Board may grant a variance from these regulations for those public pools serving 32 or fewer condominiums or cooperative units which are not operated as a public lodging establishment or for public pools serving condominium or cooperative associations of more than 32 units if the recorded documents of those associations prohibit the rental or sublease of the units for periods of less than 60 days. Variance requests by owners or representatives of all other public pools must be filed with the Florida Department of Health pursuant to F.A.C. Rule 64E-9.016.

A written application for a variance shall be submitted to the Health Department in triplicate, together with a processing fee as required by Board resolution (check made payable to the Sarasota County Public Health Unit) and shall demonstrate:

(1) That the hardship was not the result of any intentional action by the applicant.

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- (2) That the variance shall not be in conflict with any other applicable ordinance or State law.
- (3) That the variance will not adversely affect the environment.
- (4) That the variance will pose no threat to public health.

(b) *Approval by the Board of County Commissioners.* The Board shall consider the variance during a regularly scheduled meeting. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made in part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

(Ord. No. 90-007, § 1, 1-2-1990; Ord. No. 2005-011, § 11, 1-12-2005; Ord. No. 2010-041, § 2, 6-8-2010)

**Sec. 62-221. - Severability.**

If any provision of this article is for any reason held invalid and or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Ord. No. 89-064, § 10, 7-11-1989; Ord. No. 98-023, § 10, 3-17-1998; Ord. No. 2005-011, § 12, 1-12-2005)

**Sec. 62-222. - Fees.**

The Board may, from time to time, establish by Resolution a schedule of fees to include, but not limited to: license fee, permit fee, inspection and re-inspection fees, pool operator course fee, and plan review fee.

(Ord. No. 89-064, § 11, 7-11-1989; Ord. No. 98-023, § 11, 3-17-1998; Ord. No. 2005-011, § 13, 1-12-2005)

**Sec. 62-223. - Sunset provision.**

This article shall be automatically repealed on February 22, 2018, unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida.

(Ord. No. 89-064, § 12, 7-11-1989; Ord. No. 98-023, § 12, 3-17-1998; Ord. No. 2005-011, § 14, 1-12-2005; Ord. No. 2011-003, § 3, 2-22-2011)

**Sec. 62-224. - Effective date.**



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This article shall take effect immediately upon filing of the Ordinance with the Secretary of State of Florida.

(Ord. No. 2005-011, § 15, 1-12-2005)

**Secs. 62-225—62-250. - Reserved.**