



BISMARCK-BURLEIGH PUBLIC HEALTH

DATE: November 14, 2016

FROM: Anton Sattler, Environmental Health Administrator
Renaë Moch, Director *RM*

ITEM: Proposed Amendments to Title 8 and Chapter 4-06 of city ordinance

REQUEST

Consider request from Bismarck/Burleigh Public Health to amend Title 8 Health & Sanitation and Chapter 4-06 Swimming Pools of Bismarck's Code of Ordinances.

Please place this item on the November 22, 2016 City Commission meeting.

BACKGROUND INFORMATION

Expiration dates in ordinance need to be updated with the recent approval of adjusting the Environmental Health license expiration date from December 31 to March 31. While reviewing the Environmental Health ordinances with staff, additional changes were identified and are recommended.

RECOMMENDED CITY COMMISSION ACTION

Recommend approval of proposed amendments to Title 8 and Chapter 4-06

STAFF CONTACT INFORMATION

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SUPPORTING INFORMATION:

Replace “Permit” with “License”:

Staff believes the word “license” is more appropriate for the following reasons:

- Environmental Health issues licenses (i.e.: food, lodging, body art, swimming pools, tanning) similar to a liquor license as they are valid for period of time and require annual renewal. They are unlike a building permit taken out for a project and upon completion the permit expires.
- The majority of the public refer to them as licenses rather than permits (i.e.: food license).
- Less confusion for the public and the staff as we are currently using licenseTrak (as opposed to permitTrak) for our records management system.

Update License Expiration Date:

Change license expiration date language from December 31 to March 31 as approved during the November 8th commission meeting.

4-06-09 – Swimming Pool Samples:

The current ordinance reads such that swimming pools can fail no more than 15 percent of their total pool samples. This is difficult to enforce, as we do not have the results of every pool sample taken, since the day it was opened. Furthermore the ordinance doesn't specify what action may be taken if a swimming pool fails more than 15 percent. For these reasons, staff recommends amending the ordinance to state that a swimming pool may be subject to closure, if the same pool fails three consecutive water samples.

Repeal Chapter 8-02 Frozen Desserts

Dairy processing facilities are regulated by the North Dakota Department of Agriculture. If there was issue/concern with frozen desserts food establishments (i.e.: restaurant, grocery store, convenience store, etc.) Environmental Health would have authority via the North Dakota Department of Health Food Code (which we have adopted by reference in city ordinance 8-03-01) to address the matter and take regulatory action if necessary. For this reason, Chapter 8-02 is not needed for enforcement of food establishments by the Environmental Health Division and staff recommends removing it.

Repeal definitions of “Temporary food market” & “Vendor”

We currently do not charge vendors selling only whole, unprocessed produce. Both of these license types have been removed from our fees and charges.

8-03-10 – Food Inspections:

Currently we inspect all food establishments (i.e.: restaurants, grocery stores, bars, convenience stores, coffee shops, etc.) once every six months. The FDA scientifically points out that primary risk factors including the types of food served, the food preparation processes used, the volume of food, and the population served, all have a bearing on the occurrence of foodborne illness. Based on this information, the FDA recommends that regulatory jurisdictions develop and use a process that groups food establishments into at least three categories based on potential and inherent food safety risks. Risk level 1 establishments (i.e.: coffee shops, bars and convenience stores) would be inspected annually. Risk level 2 establishments (i.e.: fast food restaurants) would be inspected twice a year. Risk level 3 establishments (i.e.: full scale restaurants) would be inspected three times a year. Staff prefers this risk based inspection frequency rather than treating all food establishments the same and inspecting each once every six month. Lastly, we are currently using a paperless inspection report which is emailed to the operator after receiving their electronic signature. For this reason, we want to add “email to a confirmed email address” as an appropriate means of notification to the operator.

CITY OF BISMARCK
Ordinance No. 6240

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 4-06-07, 4-06-08 AND 4-06-09 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO POOLS; OPERATION PERMITS, PERMIT FEE AND OPERATIONAL PRACTICES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 4-06-07 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Operation Permits is hereby amended and re-enacted to read as follows:

4-06-07. Operation Permits Licenses. A person may not operate or maintain a public or semi-public swimming pool unless a permit license has been obtained to operate such pool. The permit license must be obtained by ~~January~~ April 1st of each year from the director of public health, and is valid until March 31st of the following ~~for one~~ year unless revoked for cause. A person operating a semi-public or public pool must be licensed as a "Certified Pool Operator" by the National Swimming Pool Foundation. If a certified operator is no longer employed by the pool owner, the new operator, if not already certified, must seek certification at the earliest opportunity not to exceed six months.

(Ord. 4865, 08-26-97; Ord. 5316, 05-25-04; Ord. 5642, 11-13-0, Ord. 5707, 02-24-09; Ord. 6156, 10-13-15)

Section 2. Amendment. Section 4-06-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Permit Fee is hereby amended and re-enacted to read as follows:

4-06-08. Permit License Fee. The fee for a permit license to conduct, operate and maintain a public or semipublic swimming pool is as determined from time to time by the city commission, shall be kept on file with the office of the city administrator and must be paid before the issuance of any permit license.

(Ord. 4865, 08-26-97; Ord. 5316, 05-25-04; Ord. 5642, 11-13-07)

Section 3. Amendment. Section 4-06-09 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Operational Practices is hereby amended and re-enacted to read as follows:

4-06-09. Operational Practices. The following are minimum operational practices required at all public and semipublic swimming pools:

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14. No more than ~~15 percent~~ of three consecutive water samples from the same body of water submitted may exceed the current acceptable bacteriological standards for swimming pools as established by the North Dakota State Department of Health. The failure of three consecutive water samples to meet this standard may result in closure of the pool

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(Ord. 4865, 08-26-97; Ord. 5316, 05-25-04; Ord. 5642, 11-13-07; Ord. 5963, 05-13-13)
316, 05-25-04)

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.