

**Framingham Board of Health
Public and Semi-Public Pool Regulations**

A. Statement of Purpose:

Whereas it is the role of the Framingham Board of Health to safeguard public health and provide bathers of public and semi-public pools with safe swimming conditions and adequate oversight of swimming activities.

Whereas 105 CMR 435.17 states, “If required by the Board of Health, there shall be at least one trained person on the premises at all times that the pool is open.”¹

Whereas 105 CMR 435.23 states, “The operator shall provide one or more lifeguards 16 years of age or older if the Board of Health determines that they are necessary for the safe use of the swimming or wading pool.”²

Whereas drowning is a leading cause of unintentional injury-related death for children ages 1 – 14 years.³

Whereas drowning, falling, diving, pool chemical use, and suction injuries continue to be documented as major public health issues associated with aquatic facilities. Drowning is a leading cause of injury death for young children and a leading cause of unintentional injury death for people of all ages.⁴

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Framingham Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states “Boards of health may make reasonable health regulations.”

C. Definitions:

Board of Health means the Framingham Board of Health.

Department means Framingham Department of Public Health.

¹ 105 CMR 435.00: MINIMUM STANDARDS FOR SWIMMING POOLS (STATE SANITARY CODE: CHAPTER V)

² 105 CMR 435.00: MINIMUM STANDARDS FOR SWIMMING POOLS (STATE SANITARY CODE: CHAPTER V)

³ National Center for Health Statistics, U.S. Centers for Disease Control, 2018.

⁴ CDC 2018 Model Aquatic Health Code, 3rd Edition CODE LANGUAGE Posted on 07/18/2018

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.

Residential Pool means a swimming or wading pool established or maintained by an individual for his own or family's use, or for the use of personal guests of his household.

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.

Special Purpose Pool means a unit designed for recreational and therapeutic use which is shallow in depth and not meant for swimming or diving. These pools are not drained, cleaned or refilled for each user. It may include, but not be limited to hydrojet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for such a pool includes but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, hot tubs, float tanks, etc. This standard excludes residential units and facilities used or under the direct supervision and control of licensed medical personnel.

Swimming Pool means and includes every artificial pool of water having a depth of two feet or more at any point and used for swimming or bathing, located indoors or outdoors, together with the bathhouses, equipment, and appurtenances used in connection with the pool. It does not include any special purpose pool or residential pool as herein defined nor does it include any pool used primarily for baptismal purposes or the healing arts.

Wading Pool means a pool of water in a basin having a maximum depth of less than two feet intended chiefly as a wading place for children. It does not include any residential pool.

D. Pool Supervision:

All public and semi-public pools shall have at least one trained person on the premises at all times that the pool is open in accordance with training requirements in 105 CMR 435.17(3). This individual may be the pool supervisor, a lifeguard, a pool attendant or any other trained person.

E. Lifeguards Required

The operator of any public or semi-public swimming or wading pool shall provide one or more lifeguards 16 years of age or older and meet the standards set forth by 105 CMR 435.23. One lifeguard shall be provided for each 25 bathers and the pool operator shall provide adequate number of lifeguards to meet bather load capacity. If a public or semi-public swimming or wading pool has a bather load capacity of 50, then at least 2 lifeguards are required. If a public or semi-public swimming or wading pool has a bather load capacity of 60, then at least 3 lifeguards

are required. Lifeguards for public or semi-public swimming or wading pools shall be in constant attendance during bathing hours, located at lifeguard stations within the pool fence or enclosure, and no bather shall be admitted to the pool unless a lifeguard(s) is on duty.

Any variance request for having fewer than one lifeguard shall at a minimum follow the Department's Lifeguard Variance Policy.

F. Pool Lighting

Public and semi-public pools shall not be open if light levels are such that the main drain is not visible from the pool deck. Light levels shall also be adequate so that the bottom of any public and semi-public pool shall be visible during all hours of operation.

G. Glare

The operator of public or semi-public swimming and wading pools shall ensure that glare conditions shall not prevent the bottom of the pool from being clearly visible at lifeguard stations during hours of operation. If glare conditions exist, the pool operator shall take measures to minimize glare and ensure the bottom of the pool is clearly visible at lifeguard stations during hours of operation. Measures may include, but not be limited to; using shades on windows, adjusting lighting equipment, altering the height of lifeguard stations, or requiring lifeguards to wear polarized sunglasses.

H. Emergency Communication System

Emergency Communication systems, as required in 105 CMR 435.25, installed after the passing of this regulation are required to be installed within the interior of a pool fence or enclosure of any public or semi-public pool. Mobile phones shall not suffice as a public or semi-public pool's emergency communication system. In addition to the telephone numbers listed in 105 CMR 435.25(2), a manager's telephone number shall be posted in a conspicuous place near the communication system, along with the address of the pool.

I. Diaper Changing

Diaper changing shall only be done at a designated diaper changing station at any public or semi-public pool. Diaper changing shall be prohibited on the pool deck. If bathrooms are provided, then diaper changing stations must be provided if adequate space is available.

J. Enforcement

1. This regulation may be enforced by the Board of Health and the Department.
2. In accordance with Massachusetts General Law Chapter 111, Section 31, any violation of this regulation shall be subject to fines. Each day the violation continues shall be considered a separate offense. Nothing contained herein shall preclude the Board of Health from seeking equitable relief to enforce this regulation.

3. The Board of Health may suspend, revoke, or deny a Permit if a Permit Holder is found to be in violation of any provision of this regulation after a hearing.

K. Variances

1. A variance from this regulation may be requested in writing to the Board of Health. A variance may be granted by the Board of Health after a hearing at which time the applicant establishes the following:

- (a) Strict enforcement of this regulation will constitute a manifest injustice; and
- (b) The granting of a variance shall not in any way impair the public health and safety or the environment.

2. Variance requests shall include, but not be limited to:

- (a) The name of the facility and person who has direct oversight over the pool;
- (b) A citation of the code section to which the variance is requested;
- (c) A statement as to why the applicant is unable to comply with the code section to which the variance is requested;
- (d) The nature and duration of the variance request;
- (e) A statement of how the intent of the code will be met and the reasons why the public health or safety would not be jeopardized if the variance was granted; and
- (f) A full description of any policies, procedures, or equipment that the applicant proposes to use to rectify any potential increase in health or safety risks created by granting the variance.

3. The Board of Health may impose any conditions, safeguards and other limitations on a variance when it deems it appropriate to protect the public health and safety or the environment.

4. Any variance granted by the Board of Health shall be in writing. A copy of any such variance, while it is in effect, shall be available to the public at all reasonable hours at the Department. A copy of the variance shall also be on file in the usual place of practice of the applicant.

5. Any variance granted under this section may be subject to qualification, revocation, suspension, or expiration. A variance granted may be revoked, modified, or suspended in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard by the Board of Health.

6. Each variance shall expire no later than when the permit attached to it expires.

L. Severability

If any section, subsection, sentence, clause, phrase, heading, or any portion of these Regulations is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portions thereof.