Chapter 448

1967 REPLACEMENT PART
(1969 reprint)

Swimming Facilities

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CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183
Deaths or injuries to be reported, Ch. 146
Discrimination on account of race, religion, color or national origin, in public places, 30.670
Swimming pools, joint construction and operation by local governments, Ch. 190

448.005 Definitions for ORS 448.005 to 448.090. As used in ORS 448.005 to 448.090, unless the context requires otherwise:

(1) "Bathhouse" means a structure which contains dressing rooms, showers and toilet facilities for use with an adjacent public swimming pool.

(2) "Board" means the State Board of Health.

(3) "Local health officer" means:

(a) The State Health Officer in counties having a population of less than 10,000.

(b) A county health officer in counties having a population of 10,000 or more.

(c) The district health officer in district health units, regardless of the population of the individual counties within the boundaries of such district.

(d) The city health officer in cities having a full-time health officer.

(4) "Person" includes, in addition to the definition in ORS 174.100, municipalities, recreation districts, counties and state agencies or instrumentalities.

(5) "Public swimming pool" means an artificial structure, and its appurtenances, which contains water more than two feet deep which is used, or intended to be used, for swimming or recreational bathing and which is for the use of any segment of the public. A "public swimming pool" includes, but is not limited to, swimming pools owned or operated by (a) travelers' accommodations, (b) tourist parks, (c) colleges, (d) schools, (e) camps, (f) clubs, (g) associations, (h) business establishments for their patrons or employes, (i) private persons and which are open to the public, (j) recreation districts, (k) municipalities, (L) counties or (m) a state agency.

(6) "Public wading pool" means an artificial structure, and its appurtenances, which contains water less than two feet deep which is used, or intended to be used, for wading or recreational bathing and which is for the use of any segment of the public, whether limited to patrons of a companion facility or not.

(7) "Tourist park" includes campgrounds, picnic parks, trailer parks and all other establishments rented or kept for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities, or offered free in connection with securing the trade or patronage of such persons, or for indirect benefit to the owner in connection with a related business; but "tourist park" does not include buildings, tents or other structures maintained by any person on his own premises and used exclusively to house his own farm or timber labor.

(8) "Travelers' accommodation" includes any establishment having rooms or apartments rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities.

[1961 c.566 §1]

448.010 [Repealed by 1961 c.566 §2 (ORS 448.011 enacted in lieu of ORS 448.010)]

448.011 Authority of State Board of Health. The board shall make such rules and regulations pertaining to the submission of plans for construction, issuance of permits, design, construction, size, shape, purification equipment, piping, operation, sanitation and accident prevention for public swimming pools, public wading pools and bathhouses as it deems necessary.

[1961 c.566 §3 (enacted in lieu of ORS 448.010)]

448.020 Permit required to construct swimming facilities. No person shall construct any public swimming pool or bathhouse without a permit so to do from the board.

[Amended by 1961 c.566 §4]

448.030 Application for permit; contents; issuance or denial; inspection fee. (1) Any person desiring to construct any public swimming pool or bathhouse shall file application for permission so to do with the board.

(2) The application shall be accompanied by a description of the sources of water supply, amount and quality of water available and intended to be used, method and manner of water purification, treatment, disinfection, heating, regulating and cleaning, lifesaving apparatus, and measures to insure safety of bathers, measures to insure personal cleanliness of bathers, methods and manner of washing, disinfecting, drying and storing bathing apparel and towels, and all other information and statistics that may be required by the board.

(3) The board shall then cause an investigation to be made of the proposed public swimming pool or bathhouse. If the board determines that the public swimming pool or bathhouse is or may reasonably be expected

to become unclean or unsanitary or may constitute a menace to public health or safety, it shall deny the application for permit. If the board determines that the public swimming pool or bathhouse is or may reasonably be expected to be conducted continuously in a clean and sanitary manner and will not constitute a menace to public health or safety, it shall grant the application for permit under such restriction as it shall deem proper.

(4) An applicant for a permit to construct a public swimming pool or bathhouse to be owned, operated or maintained by a person for profit, or in conjunction with a travelers' accommodation or tourist park, shall pay an inspection fee of $15 to the board. A permit granted under this section shall be sufficient authority to operate or maintain a public swimming pool or bathhouse until the end of the calendar year in which the permit is issued.
[Amended by 1961 c.566 §5]

448.035 License required to operate swimming facilities; fees; expiration date. (1) Except as provided in subsection (2) of this section, no person shall operate or maintain a public swimming pool or bathhouse without a license to do so from the State Health Officer, or his authorized representative.

(2) No person shall operate or maintain a public swimming pool or bathhouse in conjunction with a travelers' accommodation or tourist park without a license to do so from the local health officer.

(3) An annual fee of $15 shall be paid for a license to operate a public swimming pool or bathhouse either:

(a) For profit;

(b) For the primary benefit of the patrons, members or employes of the person operating the public swimming pool or bathhouse; or

(c) In conjunction with a travelers' accommodation or tourist park.

(4) Licenses issued under this section shall expire at the end of each calendar year.
[1961 c.566 §7]

448.040 Entry on premises for inspection purposes; reports. (1) For the purposes of ORS 448.005 to 448.090, the State Health Officer, or his authorized representative, and local health officers may at all reasonable times enter upon any part of the premises of public bathing and swimming places to make examination and investigation to determine the sanitary condition of such places and whether ORS 448.005 to 448.090 or the rules and regulations of the board pertaining to public swimming pools or bathhouses are being violated.

(2) The board may from time to time at its discretion publish the reports of such inspection in its monthly bulletin.
[Amended by 1961 c.566 §14]

448.050 [Repealed by 1961 c.566 §9 (ORS 448.051 enacted in lieu of ORS 448.050)]

448.051 Inspection of facilities; suspension or revocation of permit or license; hearings on suspension or revocation. (1) Except as otherwise provided by subsection (2) of this section, the State Health Officer, or his authorized representative, shall inspect all public swimming pools and bathhouses to determine the sanitary conditions of such places and whether ORS 448.005 to 448.090 and the rules and regulations of the board pertaining to public swimming pools and bathhouses are being violated.

(2) The local health officer shall inspect all public swimming pools and bathhouses owned or operated by a travelers' accommodation or tourist park to determine the sanitary conditions of such places and whether ORS 448.005 to 448.090 and the rules and regulations of the board pertaining to public swimming pools and bathhouses are being violated.

(3) If the State Health Officer, or his authorized representative, or the local health officer determines that a public swimming pool or bathhouse is unsanitary, unclean or dangerous to public health or safety he shall suspend the permit or license issued under ORS 448.030 or 448.035. The holder of the suspended permit or license and the State Health Officer shall be notified in writing of the suspension and the reasons therefor.

(4) The holder of a suspended permit or license shall have the right to appeal the suspension to the State Health Officer. The State Health Officer, or his authorized representative, shall hear the appeal within 15 days from the date of the appeal.

(5) Hearings before the State Health Officer, or his authorized representative, shall be informal in nature, and the holder of the suspended permit or license shall have the opportunity to produce witnesses on his behalf.

(6) If it appears at the hearing before the State Health Officer, or his authorized

representative, that the permit or license was improperly suspended, or that the holder of the suspended permit or license now complies with all laws and regulations pertaining to public swimming pools and bathhouses, the permit or license shall be ordered reinstated. In all other cases the suspension shall be affirmed.
[1961 c.566 §10 (enacted in lieu of ORS 448.050)]

448.060 Closing facility. (1) No public swimming pool or bathhouse shall remain open to the public after the permit or license to operate such facilities has been suspended or revoked.

(2) Any public swimming pool or bathhouse constructed, operated or maintained contrary to ORS 448.005 to 448.090, is a public nuisance, dangerous to health.

(3) Such nuisance may be abated or enjoined in an action brought by the local board of health or State Board of Health or may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.
[Amended by 1961 c.566 §15]

448.070 Reinstatement of permit or license. The State Health Officer, or his authorized representative, or the local health officer may reinstate a permit or license which has been suspended when he is satisfied that the holder of the suspended permit or license has complied with all laws and regulations pertaining to public swimming pools and bathhouses.
[1961 c.566 §13]

448.080 Appeal from action which closed the facility. (1) Within 90 days from the filing of an appeal or complaint, the board shall hold a hearing, in the manner provided in ORS chapter 183, in the following cases:

(a) On an appeal by the holder of a suspended permit or license whose appeal has been denied by the State Health Officer, or his authorized representative.

(b) On a complaint by the local health officer that a public swimming pool or bathhouse is unclean, unsanitary or a menace to public health and safety, that such condition may be reasonably expected to continue and that the permit or license should be revoked.

(2) If, at the hearing on an appeal by the holder of a suspended permit or license, it appears that the permit or license was improperly suspended, or that the holder of the suspended permit or license now complies with all laws and regulations pertaining to public swimming pools and bathhouses, the permit or license shall be ordered reinstated. In all other cases the suspension shall be affirmed.

(3) If, at the hearing on a complaint by the local health officer, it appears that the charges made in the complaint are true, the board shall suspend or revoke the permit or license. In determining whether the permit or license should be suspended or revoked the board may consider prior suspensions or revocations.
[1961 c.566 §12]

448.090 Disposition of fees and fines. All fees and fines collected under ORS 448.005 to 448.090 shall be paid to the health department having authority to issue a permit or license and shall be used in the administration of ORS 448.005 to 448.090, except that all fees and fines received by the board shall be paid into the State Treasury for credit to the State Board of Health Account and shall be used only for the administration and enforcement of ORS 448.005 to 448.090.
[1961 c.566 §8]

448.110 [Repealed by 1967 c.344 §10]

448.120 [Repealed by 1967 c.344 §10]

448.130 [Repealed by 1967 c.344 §10]

448.990 Penalties. Violation of ORS 448.005 to 448.090 by any person, firm or corporation, whether acting as principal or agent, employer or employe, is punishable, upon conviction, by a fine of not less than $25 nor more than $500 or by imprisonment in the county jail not exceeding six months, or by both. Each day that the violation continues is a separate offense.
[Amended by 1967 c.344 §8]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1967.

Robert W. Lundy
Legislative Counsel