

Resolution No.:	18-984
Introduced:	December 5, 2017
Adopted:	December 5, 2017

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

Lead Sponsor: Councilmember Leventhal

SUBJECT: Resolution to adopt Bill 26-12, Swimming Pools – Defibrillators as a Board of Health Regulation

Background

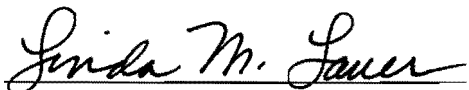
1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On [Date], the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
4. On November 13, 2012, the County Council enacted Bill 26-12, Swimming Pools - Defibrillators. Bill 26-12 requires public swimming pools to have available at all times when the pool is open at least one automated external defibrillator in good working order and at least one staff member who is trained in its use.
5. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that requiring defibrillators at public swimming pools as required by this Regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following resolution:

The provisions of Chapter 51 of the Montgomery County Code, entitled “Swimming Pools”, as amended by Bill 26-12, Swimming Pools – Defibrillators, are adopted as a Board of Health regulation. A copy of Bill 26-12 is attached to this resolution.

This is a correct copy of Council action.

A handwritten signature in black ink, reading "Linda M. Lauer". The signature is written in a cursive style with a horizontal line underneath the name.

Linda M. Lauer, Clerk of the Council

Bill No. 26-12
Concerning: Swimming Pools –
Defibrillators
Revised: 11/6/2012 Draft No. 2
Introduced: September 11, 2012
Enacted: November 13, 2012
Executive: November 26, 2012
Effective: November 13, 2013
Sunset Date: None
Ch. 23, Laws of Mont. Co. 2012

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Leventhal, Riemer, Rice, Navarro, Andrews, Elrich and Floreen

AN ACT to:

- (1) require certain swimming pools to have an automated external defibrillator available on the premises under certain circumstances; and
- (2) generally amend the law concerning swimming pools.

By amending

Montgomery County Code
Chapter 51, Swimming Pools
Section 51-1

By adding

Chapter 51, Swimming Pools
Section 51-16A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Chapter 51 is amended by amending Section 51-1 and adding Section ~~[[51-19A]]~~ 51-16A:

51-1. Definitions.

In this Chapter, the following words have the following meanings:

[(a)] *Approving authority*[: The] means the Director of the Department of Health and Human Services or the Director's designee.

Automated external defibrillator means a portable electronic device that provides an electric shock to the heart in order to reestablish normal contraction rhythms in a heart having dangerous arrhythmia or that is in cardiac arrest.

[(b)] *Automatic pool cover*[: A] means a mechanical device that completely covers the swimming pool surface automatically when activated, and meets the requirements of a power safety cover established by the American Society for Testing and Materials.

[(c)] *Lifeguard*[: A] means a person who:

- (1) is at least 15 years old; and
- (2) has a valid lifeguard certificate from the American Red Cross, the Young Men's Christian Association, or a comparable program approved by the Director of the Department of Health and Human Services.

[(d)] *Owner*[: Any] means any person, cooperative, association, partnership, firm, corporation, public agency, or authorized agent of any of them, excluding a pool management company, under whose authority a swimming pool or private spa is being constructed, remodeled, reconstructed, or operated. For the purposes of serving notices of violation of this chapter, the person present at

the swimming pool or private spa and charged with its operation is an agent of the owner.

[(e)] *Pool management company*[: Any] means any person, cooperative, association, partnership, firm, or corporation, excluding a pool operator, who is responsible by contract or other agreement with the owner of a public swimming pool for the operation of the public swimming pool, including [but not limited to one or more of the following]:

[(i)] *Assuring* (1) assuring compliance with all operating standards set forth in this Chapter and all rules and regulations promulgated hereunder;

[(ii)] *Providing* (2) providing for the physical maintenance, supplies, and personnel as required by this Chapter and all rules and regulations promulgated hereunder; and

[(iii)] *Obtaining* (3) obtaining all necessary permits and licenses.

[(f)] *Pool operator*[: Any] means any person in possession of a valid county pool operator's license who is in the immediate control of the operation of a public swimming pool.

[(g)] *Private spa*[: Any] means any outdoor bathing structure that is:

- (1) a self-contained unit in which all control, water heating, and water circulating equipment is an integral part of the unit;
- (2) built on the grounds of a single-family private residence;
- (3) used solely by the owner, immediate family, tenants, and guests; and
- (4) not used for swimming, diving, or wading.

[(h)] *Private swimming pool*[: Any] means any swimming pool that is:

- (1) built on the grounds of a single-family private residence; and
- (2) used solely by the owner, immediate family, tenants, and guests.

[(i)] *Public spa*[: Any] means any public swimming pool that is:

[(i) Intended] (1) intended for public recreational and therapeutic uses other than swimming, diving, or wading; and

[(ii) Is] (2) is not drained, cleaned, or refilled for each user.

[(j)] *Public swimming pool*: A] means a swimming pool, except a private swimming pool, which is intended to be used collectively by numbers of persons for swimming, diving, wading, or recreational bathing.

[(k)] *Spa guard*[: An] means an individual currently certified in cardiopulmonary resuscitation (CPR).

[(1)] *Swimming pool*[: Any] means any artificial structure, basin, chamber, or tank, except a private spa, either above or below ground, which is used or intended to be used for the primary purpose of swimming, diving, wading, or recreational bathing. Swimming pool includes all appurtenant equipment, structures, and facilities located within a common enclosure. A unit used in conjunction with the private practice of a physician or physical therapist is not a swimming pool.

51-16A. Defibrillators.

(a) Every public swimming pool must have available at all times when the pool is open at least one automated external defibrillator in good working order and at least one staff member who is trained in its use.

(b) (1) This Section is not intended to impose any civil liability, or relieve any person from civil liability, regarding the presence or use of, or failure to use, any automated external defibrillator, except as expressly provided in paragraph (2).

(2) An owner or employee of a public swimming pool is not liable in connection with the use or nonuse of an automated external defibrillator , unless:

(A) the pool does not have an automated external defibrillator available as this Section requires; or

(B) an employee has acted with gross negligence or engaged in willful or wanton misconduct.

(d) Any violation of this Section is a class C civil violation. The County Attorney or any affected person may file an action in a court with jurisdiction to enjoin repeated violations of this Section.


(e) The Department of Health and Human Services must inspect each pool to assure that the pool has an automated external defibrillator on site and that defibrillator is registered with the Maryland Institute for Emergency Medical Services Systems. The [[County Fire and Rescue Service]] Department of Health and Human Services must investigate each complaint alleging a violation of this Section and take appropriate action, including issuing a citation when compliance cannot be obtained otherwise. [[The Department of Health and Human Services may, if requested, assist the Service in enforcing this Section.]]

Sec. 2. This law may be cited as “Connor’s Law.”

Sec. 3. Effective date. This Act takes effect on November 13, 2013.

97 *Approved:*

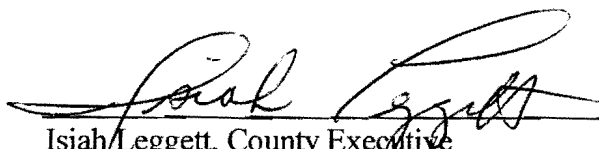
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Roger Berliner, President, County Council


Date

99 *Approved:*

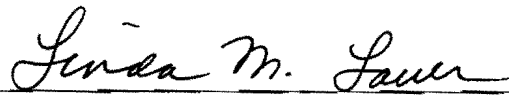
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Isiah Leggett, County Executive


Date

101 *This is a correct copy of Council action.*

102


Linda M. Lauer, Clerk of the Council


Date