



TO: Aquatics Board
FROM: George Schaaf, Parks & Recreation Director
DATE: April 1, 2021
RE: Commercial Use Regulations Update

Given that more than year has passed since the Aquatics Board last discussed commercial use of Juneau's pools, it could be helpful to review the discussions and actions taken so far:

At its regular meeting on September 24, 2019, the Aquatics Board asked staff to draft regulations and policies regarding commercial use of municipal aquatics facilities. Pending adoption of these commercial use regulations, the Department decided to waive enforcement of CBJ 67.01.090(i). This ordinance requires a permit for commercial use of recreation facilities (including pools) and provides a \$300 penalty for violations.

Draft regulations and a proposed policy were introduced at the November 19, 2019 Aquatics Board meeting. The proposed regulations were finalized at the February 25, 2020 meeting and prepared for public comment. The COVID-19 pandemic struck shortly thereafter and the proposed regulations were tabled indefinitely. The Aquatics Board resumed consideration of commercial use regulations on March 30, 2021.

Legal Requirements

City code requires a permit and liability insurance for the commercial use of all recreation facilities (CBJ 67.01). Neither the Aquatics Board nor the Department have any discretion to waive these requirements. While the Department has not enforced CBJ 67.01 previously, this failure does not negate our responsibility to follow the law now. The Assembly has provided clear direction and Title 67 requires all individuals who use CBJ facilities for profit to obtain the appropriate permits and insurance. The Department does not support changing this law to

exempt private swim instructors from carrying liability insurance, or obtaining and complying with the terms of a commercial use permit. These provisions exist not only to protect the CBJ, but also our guests and commercial users themselves.

Insurance

City code requires liability insurance for any commercial use of recreational facilities (CBJ 67.01.080). A number of private swim instructors expressed concern about their ability to secure liability insurance at an affordable price. Parks & Recreation staff worked with CBJ's Risk Manager to offer affordable "Special Events Program" insurance for swim instructors and coaches through Alliant Insurance Service, Inc. The cost of this insurance in 2021 is \$102 per year for up to 125 students. This premium would be paid by the permittee. Staff also recommends including a small service charge to recover the City's costs to process the insurance application. This insurance provides the following coverages, which meet CBJ requirements:

- \$2 million General Aggregate
- \$1 million Personal and Advertising Injury
- \$1 million Each Occurrence
- \$100,000 Fire Damage
- \$5,000 Medical Expense

Of course, commercial users may obtain their own insurance, subject to approval by the CBJ Risk Manager.

Code vs. Regulations

The municipal code is adopted by the Assembly and establishes the basic requirement that commercial use requires a permit and insurance. Specific details about what kinds of permits will be offered, how to apply, and what kinds of fees may be charged are established by the Aquatics Board through regulations. The Aquatics board may also adopt policies that provide guidance for staff to implement these regulations, and set fees as authorized by the regulations.

Next steps

Through CBJ 67.10, the Assembly has empowered the Aquatics Board to adopt regulations necessary for the administration of the aquatics facilities. Regulations must be adopted pursuant to CBJ 01.60, which requires that public notice be provided at least 21 days before adoption. Upon completion of public proceedings, the proposed regulation is sent to the city attorney for approval as to form and regulatory authority. After considering all of the information available, the Aquatics Board may then adopt the regulation. Regulations adopted by the Aquatics Board are subject to review by the Assembly.

I recommend you finalize the proposed regulations and direct staff to invite public comment per CBJ 01.60. You must wait until this regulation is adopted before setting fees.