

Mecklenburg County Health Ordinance Rules Governing Residential Swimming Pools



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MECKLENBURG COUNTY HEALTH ORDINANCE RULES GOVERNING RESIDENTIAL SWIMMING POOLS

Be it ordained by the Mecklenburg County Board of Commissioners (while exercising the powers of the Board of Health, which powers it has assumed and conferred upon itself by action pursuant to G.S.153A-77, that the following regulations governing the, construction, alteration, maintenance, operation and use of residential swimming pools in Mecklenburg County, for the protection of the public health, are hereby adopted pursuant to Article 2 of Chapter 130A-39(a) of the General Statutes of North Carolina. These regulations shall apply throughout Mecklenburg County, North Carolina, including, but not limited to all cities and towns, whether incorporated or unincorporated.

SECTION 1: PURPOSE

The following rules are enacted for the purpose of protecting the health and safety of citizens residing near residential swimming pools in Mecklenburg County. This will be accomplished by requiring installation of effective barriers to prevent unauthorized access to the pool, particularly by children and non-swimmers. The rules also set in place a framework for the collection of fees to offset the cost of performing the work and allow County staff to investigate and abate nuisance conditions created by improper operation of residential swimming pools.

SECTION 2: DEFINITIONS

- (a) "Board of Health" or "Board" means the Mecklenburg County Board of Commissioners acting as the Board of Health pursuant to North Carolina General Statute 153A-77.
- (b) "Construction completion" means the time at which a pool is capable of holding water.
- (c) "Contractor" means the company or individual under contract to construct a swimming pool, or owner who constructs a swimming pool for his own use.
- (d) "Director" means the Health Director for Mecklenburg County. The term also means the authorized representative of the Director.
- (e) "NSPI" means the National Spa and Pool Institute.
- (f) "Owner" means the person responsible for ownership of the property on which a pool is located.
- (g) "Person" means an individual, firm, partnership, association, public or private institution, municipality, political subdivision of the State of North Carolina, governmental agency or a public or private corporation, organized or existing under the law of this State or any other state or county.
- (h) "Public health hazard" means a situation which is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (i) "Public nuisance" means a situation which creates continuing and unreasonable interference with the use and enjoyment of property and may cause injury to another if not corrected.
- (j) "Spa" means a pool designed with hydrojet circulation and may include but is not limited to a spa, whirlpool, or hot tub.
- (k) "Structural modification" means a change which would require renovation of equipment, piping, structures, appurtenances, or similar items but does not mean a change which would require merely the addition of equipment, piping, structures, fencing, or similar items in order to bring a facility into compliance with the provisions of this Ordinance.

- (l) "Residential swimming pool" or "residential pool" means an artificial structure, basin, chamber or tank containing a body of water for the primary purpose of swimming, diving, recreational, or therapeutic bathing. As used in this Ordinance the term is limited to pools which are fitted with a filter for clarifying pool water, or which are designed to be fitted with a filter, whether installed or not. The term shall not include facilities located inside a residence, storable pools designed for seasonal setup and use which are stored at the end of the swimming season, or spas installed on decks or porches if a fitted hard cover designed to prevent entry is maintained in place at all times when the spa is not in use.
- (m) "Wastewater" means the liquid waste generated by water-using fixtures and appliances. As used in this Ordinance, the term includes water generated during pool backwash, pool drainage, and maintenance activities.

SECTION 3: VARIANCES

- (a) When unnecessary hardships would result from enforcing the precise provisions of this Ordinance, the Director may vary or modify the application of any provision of the Ordinance on a case by case basis so long as the spirit of the Ordinance is observed; public health, safety and welfare secured; and substantial justice done.
- (b) Each application for a variance shall be submitted in writing to the Director by the person owning or controlling the pool, or his authorized agent. The request shall identify the specific rule from which the variance is requested, the reason(s) for the request, the consequences anticipated if the request is not approved, details of any construction or operational changes that would be made at the pool to offset adverse effects that might result if the request is approved, and any other information needed by the Director to make an informed decision regarding the request.

SECTION 4: APPEALS

- (a) Any owner may appeal a decision made by the Director. Appeals shall be conducted in accordance with North Carolina General Statutes 130A-24(b) through (d).
- (b) No person shall take any action prohibited by the Director until there is a final resolution of the appeal.

SECTION 5: SITING AND APPROVAL OF RESIDENTIAL SWIMMING POOLS

- (a) No person shall construct, install, extend, alter or modify a residential swimming pool unless they have received approval from the Director.
- (b) The Director shall approve or deny a construction request based on a review of the application submitted. However, the Director may conduct a site visit prior to approving or denying a construction request on any site if a well or septic tank system, including required repair area, is located or proposed to be installed within 200 feet of the proposed swimming pool location, or where on-site verification of information contained in the application is desired.
- (c) Application for approval to construct a residential swimming pool shall be made on forms provided by the Director. The application shall include:
 - (1) An accurately dimensioned site plan showing the proposed pool location, buildings located on the property, location or proposed location of the septic tank system including the drain field and any required repair area, any well located within 100 feet of the proposed site, and the location of fences, gates, and materials comprising the pool

- barrier.
- (2) Specifications and methods for disposal of wastewater from the pool including backwash water and water drained from the pool.
- (3) Specifications for the water supply to serve the pool.
- (d) Upon completion of construction, the owner shall notify the Director who may conduct an inspection to ensure the pool was installed as submitted on the site plan, and to ensure that neither a public nuisance nor a public health hazard will result from operation of the pool as constructed.
- (e) An approval granted based on false, misleading, or inaccurate information may be withdrawn by the Director at any time.
- (f) A non-refundable fee in an amount approved by the Board shall be submitted with each approval request form.

SECTION 6: OPERATION AND MAINTENANCE

- (a) At the end of the swimming season, the pool water, structure, or chamber shall be treated, altered, or maintained so as to prevent the development of insanitary conditions.
- (b) Pools under construction or which are no longer being operated shall be maintained in a manner so as to prevent the development of insanitary conditions, potential injury, or possible drowning.
- (c) Wastewater from the swimming pool shall be discharged into a sanitary sewer. There shall be no direct physical connection between the sewer system and any drain from the swimming pool or circulation system.
- (d) Alternative equivalent methods of wastewater disposal may be approved by the Director. No method of wastewater disposal is permissible which would create a public health hazard or public nuisance.

SECTION 7: SITE LAYOUT

- (a) The residential swimming pool shall be located the maximum feasible distance from any well or septic tank system in the area; however, under no circumstances shall the residential swimming pool be located less than a minimum horizontal distance of:
 - (1) 50 feet from any private water supply source, including any well or spring under the control of the swimming pool owner;
 - (2) 100 feet from any private water supply source not under the control of the swimming pool owner;
 - (3) 15 feet from any septic tank system or area designated for repair as specified in 15A North Carolina Administrative Code 18A.1900 "Laws and Rules for Sanitary Sewage Collection, Treatment, and Disposal."
- (b) Residential swimming pools shall be protected by a fence, wall, building, or other enclosure, or any combination thereof, which completely encloses the swimming pool area such that all of the following conditions are met:
 - (1) A 44 inch minimum height (from the outside approach) is provided entirely around the swimming pool;
 - (2) The horizontal space between vertical members of the enclosure shall not exceed four inches;
 - (3) The height of any opening under the bottom of the enclosure shall not exceed four inches (10 cm);

- (4) Openings under and through a fence or barrier with the gate(s) closed shall be sized so that a 4 inch diameter sphere cannot be passed through the opening.
- (5) All gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms and shall be capable of being locked.
- (6) Self-closing, self-latching gates shall not be required for service gates which are kept locked except when being actively used when at least one separate gate meeting all the requirements of Section 7(b)(1) through Section 7(b)(5) are met.
- (c) The wall of an aboveground swimming pool shall be considered an effective barrier in areas where it complies with the height requirements required in Section 7(b)(1). When the pool wall serves as a portion of the barrier, stairs allowing access to the pool shall be removed when bathers are not using the pool or in attendance unless a gate or gates meeting the requirements of Section 7(b)(1) through 7(b)(5) are installed to limit access to the stairs.
- (d) All residential pool enclosures shall be completed at the time the pool is allowed to contain water.

SECTION 8: COMPLIANCE AND REGULATIONS

- (a) Pools constructed after the effective date of this Ordinance shall comply fully with the Ordinance herein.
- (b) Those sections of this Ordinance which would require structural modifications of existing facilities, or of facilities under construction which hold a valid permit to construct, shall not apply provided such facilities do not create a public health hazard due to lack of such modification.
- (c) In the event that a public health hazard shall result from a failure to make structural repairs to an existing facility, or to a facility that is under construction, such modifications may be required to the extent necessary to eliminate the hazard.
- (d) Except as provided above, existing facilities shall be brought up to the standards of this Ordinance within 12 months from the effective date of this Ordinance.

SECTION 9: PENALTIES AND REMEDIES

- (a) Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor in accordance with NCGS 14-4 and punished by a fine not to exceed five hundred dollars (\$500.00).
- (b) The Director may bring a civil proceeding in the Mecklenburg County Superior Court to enforce the provisions of this Ordinance in accordance with Article 1 Part 2 of Chapter 130A of the General Statutes of the State of North Carolina.

SECTION 10: SEVERABILITY

If any provision or clause of this Ordinance shall be declared invalid, such declaration shall not invalidate any other provision or clause of this Ordinance.

SECTION 11: PRIOR RULES REPEALED

All ordinances, rules and regulations heretofore adopted by the Mecklenburg County Board of Health regulating residential swimming pools are hereby repealed.

SECTION 12: EFFECTIVE DATE

These regulations shall be in full force and effective from and after May 18, 1999.