

MECKLENBURG COUNTY RULES GOVERNING PUBLIC 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 permitting, operation, maintenance, and abandonment of public swimming pools in Mecklenburg County, for the protection of the public health, are hereby adopted pursuant to 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. These rules do not replace North Carolina Rules Governing Public Swimming Pools found in 15A NCAC 18A .2500, but apply in addition to those rules.

SECTION 1: PURPOSE

The following rules are enacted for the purpose of protecting the health and safety of citizen's utilizing public swimming pools in Mecklenburg County. The rules also set in place a framework for the collection of fees to offset the cost of performing inspections mandated by the North Carolina Commission for Health Services, and allow County Staff to investigate and abate nuisance conditions created by improper operation of public swimming pools.

SECTION 2: DEFINITIONS

The following definitions shall apply throughout this Rule:

(a) "Annual pool" means those public swimming pools that are permitted to operate more than seven months per year. For the purpose of determining how many months a pool operates, any day of operation in a given month will be considered a full month of operation.

(b) "Board of Health" or "Board" means the Mecklenburg County Board of County Commissioners acting as the Board of Health pursuant to North Carolina General Statute 153A-77.

(c) "Department" means the Mecklenburg County Health Department.

(d) "Director" means the Health Director for Mecklenburg County. The term also means the authorized representative of the Director.

(e) "Permit" means a paper, sign, placard, certificate, or other official document indicating permission has been granted pursuant to these rules for the operation of a public swimming pool for a specified period of time.

(f) "Person" means an individual, firm, partnership, association, public or private institution, municipality, political subdivision of the State of North Carolina, governmental agency, public or private corporation, or any combination thereof.

(g) "Pool Depth" means the vertical distance from the centerline of the skimmer or the top of the overflow trough to the deepest point on the pool floor that is at least one foot horizontal distance from any main drain.

(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 a continuing and unreasonable interference

with the use and enjoyment of property and may cause injury to another if not corrected.

(j) "Public swimming pool" means any structure, chamber, or tank containing an artificial body of water used by the public for swimming, diving, wading, recreation, or therapy, together with buildings, appurtenances, and equipment used in connection with the body of water, regardless of whether a fee is charged for its use. The term includes municipal, school, hotel, motel, apartment, boarding house, athletic club, or other membership facility pools and spas. For the purpose of this Rule, the term does not apply to a private pool serving a single family dwelling and used only by the residents of the dwelling and their guests. It also does not apply to therapeutic pools used in physical therapy programs operated by medical facilities licensed by the Department of Human Resources or operated by a licensed physical therapist, nor to therapeutic chambers drained, cleaned, and refilled after each individual use. For the purpose of applying Sections 8 and 9 of this rule, the term includes facilities which formerly operated as a public swimming pool but which are not currently permitted or operating. Public swimming pools are classified as:

(1) "Swimming pools" - all public swimming pools except spas and wading pools.

(2) "Spas" - special facilities designed for recreational and therapeutic use which are not drained, cleaned, or refilled after each individual use. Spas may include, but are not limited to, units designed for hydrojet circulation, hot water, cold water mineral bath, air induction bubbles, or any combination thereof. Common terminology for spas includes "therapeutic pool," "hydrotherapy pool," "whirlpool," "hot spa," and "hot tub."

(3) "Wading pools" - small, shallow pools not more than 24 inches deep designed for use by children.

(k) "Seasonal pool" means those public swimming pools that are permitted to operate no more than seven consecutive months per year. Permits for seasonal pools shall run from April 1 until October 31.

(l) "Wastewater" means the liquid waste generated by water-using fixtures and appliances. The term includes water generated during pool backwash, pool drainage, and maintenance activities.

SECTION 3: PUBLIC SWIMMING POOL OPERATION PERMITS

(a) No public swimming pool shall be operated without having been issued a valid operating permit by the Mecklenburg County Health Department. The permit shall be posted in a location designated by the Director where it can be readily observed by the public upon entering the pool area.

(b) A permit for the operation of a seasonal pool shall be valid for a period of up to 7 consecutive months beginning April 1. All seasonal pool permits shall expire on October 31. A permit for the operation of an annual pool shall be valid for a period of up to 12 months. All annual pool permits shall expire on April 30.

(c) Whenever, upon inspection of the facilities, equipment, or operating methods of any facility covered by this rule, the Director finds conditions or practices exist which represent a public health hazard, the Director shall notify the operator in writing or verbally followed by a written notice to immediately abate the public health hazard. Upon receipt of such notice the operator shall immediately abate the public health hazard, or shall cease operation of the facility if this will result in abatement of the hazard. The facility shall remain closed until an inspection by the Director reveals the public health hazard has been abated.

(d) Whenever, upon inspection of the facilities, equipment, or operating methods of any facility covered by this rule, the Director finds conditions or practices exist which represent a public

nuisance, the Director shall notify the operator in writing or verbally followed by a written notice to abate the public nuisance within a reasonable period of time, not to exceed 30 days. The operator shall abate the public nuisance within the period of time allotted. If the public nuisance is not abated within the time allotted, the operator shall cease operation of the facility if this will result in abatement of the nuisance. Once closed, the facility shall remain closed until an inspection by the Director reveals the public nuisance has been abated.

(e) No permit to operate shall be valid unless the operator is also in possession of a valid operation permit issued under Title 15A North Carolina Administrative Code 18A .2500 "Rules Governing Public Swimming Pools."

SECTION 4: FEES

(a) A plan review fee, in an amount approved by the Board, shall be submitted in conjunction with plans and specifications required for construction or remodeling of a public swimming pool.

(b) A permit fee, in an amount approved by the Board, shall be submitted with each application for a public swimming pool or the annual renewal of an existing permit.

(c) Application for renewal of public swimming pool permits shall be completed during the month of February. Applications not received by the close of business on the last work day of February shall be assessed a late penalty in an amount approved by the Board. An application shall not be deemed to have been received until the printed form mailed to the owner or his agent is reviewed, updated, signed, returned, and received by the Department along with the appropriate payment.

SECTION 5: APPEALS

(a) Any owner may appeal a decision made by the Director in the application of this Rule. 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 grievance.

SECTION 6: INSPECTION AND REPORTS

(a) The Director shall make such inspections, surveys, and investigations, collect samples of water and other substances found on the premises of public swimming pools, and make or cause to be made such laboratory analyses as may be necessary to determine that every public swimming pool complies with the standards and requirements set forth in this rule. The Director is authorized and empowered to enter upon and make inspections of the premises of any public swimming pool while it is in operation or in use and at any other reasonable time. The operator shall assist in any reasonable way with such inspections.

(b) It shall be the duty of every public swimming pool owner or operator to maintain and furnish the Director such records and information as may be required for ascertaining compliance with this rule.

SECTION 7: LIFEGUARD/SAFETY REQUIREMENTS

(a) The following classifications shall apply to public swimming pools for the purpose of determining lifeguard requirements:

(1) Type "A" - Any pool operated by a municipality, community organization, neighborhood

association, school, college, university, athletic club, institutional facility, country club, or similar facility.

(2) Type "B" - Any pool operated by a hotel, motel, apartment complex, condominium owners association, or similar facility.

(3) Type "C" - Any public spa.

(b) Type A pools with a pool depth of five feet or less shall provide, on the premises, a lifeguard or other person trained in lifesaving techniques who regularly surveys the pool area but is not required to remain in the pool area. A suitable alarm shall be provided at poolside to summon such lifeguard or other person to the pool area in the event of an emergency.

(c) Type A pools with a pool depth greater than five feet shall provide a lifeguard or lifeguards trained in lifesaving techniques at poolside at all times when the pool is open for operation.

(d) Lifeguards shall not be required at Type B or Type C pools; however, no pool, regardless of type, shall be used when a lifeguard or other person is not present.

(e) When practical difficulties or unnecessary hardships would result from application of the lifeguard requirements of this Rule, the person owning the pool may request a variance from the requirements. The Director may vary or modify the lifeguard requirements on a case by case basis to accommodate such difficulties or hardships.

SECTION 8: CLOSURE/ABANDONMENT OF POOLS

(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.

SECTION 9: WASTEWATER DISPOSAL STANDARDS

(a) Wastewater from the swimming pool, including backwash water and water resulting from periodic drainage of the 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.

(b) Alternate 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 10: PENALTIES AND REMEDIES

(a) Any person who violates any provision of this Rule 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 Rule in accordance with Article 1 Part 2 of Chapter 130A of the General Statutes of the State of North Carolina.

SECTION 11: SEVERABILITY/CONFLICT

(a) If any provision or clause of this rule shall be declared invalid, such declaration shall not invalidate any other provisions or clause of this rule.

(b) If any rule contained in this rule conflicts with any State rule governing the construction, remodeling, or operation of a public swimming pool, the more stringent rule, as determined by the Director, shall apply.

SECTION 12: PRIOR RULES REPEALED

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

SECTION 13: EFFECTIVE DATE

These regulations shall be in full force and effective from and after.