

SHDHD Public Swimming Pools Regulations September 2, 2026

PUBLIC SWIMMING POOLS

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010 Purpose.

The Board of Health finds that properly designed, constructed, installed, operated, and maintained public swimming pools and spas:

- a. Reduce health risks and hazards to public health and safety, including drowning and serious injury;
- b. Minimize disease transmission potential;
- c. Prevent nuisance conditions; and
- d. Promote physical activity and afford recreation.

The Board of Health adopts these regulations for the construction, maintenance, operation, permitting and inspection of Public Swimming Pools and the training and certification for Public Swimming Pool Operators to prevent and eliminate health and safety risks. The Board of Health authorizes the Health Director to administer and enforce these regulations.

020 Authority and Scope.

Neb. Rev. Stat. § 71-1626 Terms, defined.

For purposes of sections 71-1626 to 71-1636:

- (3) Local public health department means a county, district, or city-county health department.

Neb. Rev. Stat. § 71-1631. Local boards of health; meetings; expenses; powers and duties; rules and regulations; pension and retirement plans.

- (7) Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health and Human Services;
- (8) Make all necessary sanitary and health investigations and inspections;
- (10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health and Human Services, to arrest the progress of the same;
- (14) Establish fees for the costs of all services, including those services for which third-party payment is available;

Neb. Rev. Stat. § 71-1631.01. Local boards of health; rules and regulations; violations; penalty.

Any person violating any rule or regulation, authorized by the provisions of either subdivision (7) or (9) of section 71-1631, shall be guilty of a Class III misdemeanor, and each day's violation shall be considered a separate offense.

Neb. Rev. Stat. § 81-15,263 For purposes of the Environmental Safety Act:

(3) Local government means a county, city, or village or a local public health department as defined in section 71-1626.

Neb. Rev. Stat. § 81-15,265 Swimming pools; sanitary and safety requirements.

(2) A local government shall by resolution, ordinance, or regulation adopt and enforce minimum sanitary and safety requirements for the equipment and operation of swimming pools and bather preparation facilities which meet or exceed the minimum requirements adopted by the department pursuant to subsection (1) of this section.

Neb. Rev. Stat. § 81-15,268 Swimming pools; inspection; records; classification; plans and specifications; fees; disposition; exception; existing rules, regulations, licenses, permits, forms of approval, suits, other proceedings; how treated.

- (1) The local government which exercises jurisdiction over a swimming pool shall inspect such swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements established by the local government.
- (2) A local government may establish and collect fees for the inspection of a swimming pool at a rate not more than the actual costs of the inspection.
- (3) The owner and operator of any swimming pool shall operate such swimming pool in compliance with minimum sanitary and safety requirements established by the local government which exercises jurisdiction over such swimming pool. The owner or operator of any swimming pool shall retain for three years operation and analytical records to determine the sanitary and safety condition of the swimming pool and shall make such records available to the local government upon request.
- (4) The department shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners, and other appropriate parties fees established by rules and regulations for the review of plans and specifications of a swimming pool, the issuance of a construction or permit and any other services rendered at a rate which defrays no more than the actual cost of the services provided. Fees collected under this subsection for the review of plans and specifications and the issuance of a construction permit shall be remitted to the

State Treasurer for credit to the Engineering Plan Review Cash Fund.

- (5) The operator of any swimming pool shall maintain a certificate of competency for swimming pools. The department shall maintain a list of acceptable pool operator competency courses.
- (6) All rules and regulations adopted prior to the operative date of this section under sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by this legislative bill, until amended or repealed by the department.
- (7) All licenses, permits, or other forms of approval issued prior to the operative date of this section, in accordance with sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall remain valid as issued for purposes of the changes made by this legislative bill, unless revoked or otherwise terminated by law.
- (8) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this section, under sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to the operative date of this section.

Neb. Rev. Stat. § 81-15,270. Swimming pools; violation.

Any owner or operator of a swimming pool failing to maintain a certificate of competency as required by section 81-15,268 or failing to comply with the minimum sanitary and safety requirements established by the local government exercising jurisdiction over such swimming pool shall be subject to enforcement, penalties, or other remedies as established by such local government.

030 Definitions.

For the purposes of these regulations, the following words shall mean:

Additional Pool shall mean any public swimming pool as defined here which is co-located with a permitted public swimming pool.

Board of Health shall mean the South Heartland District Health Department Board of Health.

Closed shall mean that the enclosure surrounding a swimming pool remains locked and patrons are unable to access the swimming pool or its deck until such time that the Health Director notifies the owner or swimming pool operator that the pool may be opened.

Governmental Agency shall mean the same as Neb. Rev. Stat. § 86-622 Governmental agency, defined. Governmental agency means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or a county, municipality, or other political subdivision of a state.

Health Department shall mean the South Heartland District Health Department.

Health Director shall mean the director of the South Heartland District Health Department or an authorized representative of the director.

Significant Health Risk shall mean a threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury, illness or disease.

Owner shall mean a person, individual, firm, partnership, association, corporation, company, municipality, political subdivision, community, government agency, club, organization, or other entity owning a public swimming pool or the owner's representative.

Person shall mean any individual, firm, partnership, association, corporation, company, municipality, political subdivision, community governmental agency, club, organization, or other entity owning or operating a public swimming pool.

Political Subdivision shall mean the same as in Neb. Rev. Stat. §13-1612. Political subdivision, defined. Political subdivision shall include villages, cities, counties, school districts, public power districts, community colleges, natural resources districts, and all other units of local government.

Public Swimming Pool shall mean any artificial basin of water modified, improved, constructed, or installed which is used for the purpose of public swimming, wading, diving, recreation, or instruction. Public swimming pool does not include an artificial lake, a pool at a private residence intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers. All public swimming pools shall be divided into the following classes:

- a. **Class A Pool** shall mean a swimming pool operated by a municipality, political subdivision, or governmental agency.
- b. **Class B Pool** shall mean a swimming pool operated at a facility including, but not limited to, an apartment, a condominium, a property owner association, a child care facility, and lodgings such as hotels and motels.
- c. **Class C Pool** shall mean a spa, hot tub, whirlpool, cold plunge, etc. which is not intended to be drained, cleaned, and refilled after each use.
- d. **Class D Pool** shall mean a wading pool that is no more than 24 inches deep.
- e. **Class E Pool** shall mean a spray park providing recirculated water to spray features with no permanent standing water accessible to pool patrons designed so that users have full body contact with the water.
- f. **Class F Pool** shall mean a swimming pool at a health club, fitness center, community fitness center.

Public Swimming Pool Operator shall mean an individual of at least 19 years of age who has a current certificate of competency from a swimming pool operator course approved by or offered by the Health Department.

Variance shall mean a written approval from the Nebraska Department of Water, Energy and Environment to allow a modification that does not conform to the requirements in Title 196 Nebraska Administrative Code Chapter 1: Design, Permitting, and Construction of Swimming Pools .

040 Plans; Approval for Construction; Required.

No person shall begin construction or installation of, or make modification to, any Public Swimming Pool until it is approved by the Nebraska Department of Water, Energy and Environment.

050 Design and Construction Standards.

Except as hereinafter provided by specific amendment, the standards and requirements set forth in Title 196 Nebraska Administrative Code Chapter 1: Design, Permitting, and Construction of Swimming Pools as amended from time to time, are hereby adopted by reference as Board of Health regulations.

060 Permit to Operate.

No person shall operate or maintain a Public Swimming Pool in the jurisdictional area of the Health Department without a valid permit to operate issued by the Health Director. A permit shall not be considered valid if suspended or revoked. Each permit shall be valid through March 31 following issuance of the permit. A renewal permit shall be secured on or before April 1 of each year, which will expire on March 31 of the following year. All permits shall state the conditions and term thereof. A Public Swimming Pool Operator responsible for operating the pool shall be identified. It shall be unlawful for any person to conduct, operate, maintain, or manage a Public Swimming Pool without complying with the requirements of these regulations, and the Health Director is charged with enforcement of the provisions hereof. A permit to operate a Public Swimming Pool shall not be transferable. Any change of ownership shall necessitate the new owner to obtain a new Public Swimming Pool permit to operate before operating the pool. The permit must be conspicuously posted on the pool premises.

070 Permit; Application.

An application for a permit to operate a Public Swimming Pool shall be made to the Health Director on forms furnished for such purpose. Such forms shall require the owner's full name, mailing address, business phone number, cell phone number, email address, the establishment name and address, and the number and types of pools or spas on the premises, the Public Swimming Pool Operator(s) designated for the pool, the signature of the owner(s), and such other relevant information as may be required by the Health Director.

080 Operational Standards.

The minimum sanitary and safety requirements provided in Title 196 Nebraska Administrative Code Chapter 2: Minimum Sanitary and Safety Requirements for Swimming Pools are hereby adopted by reference as Board of Health regulations. The owner and operator of any Public Swimming Pool shall operate in compliance with these minimum sanitary and safety requirements. The owner and operator of any Public Swimming Pool shall retain required operational and analytical records for three years. Upon request of the Health Director, such records shall be provided within five (5) business days.

090 Public Swimming Pool Permit Fees.

- a. The Board of Health may establish or revise fees for Public Swimming Pools permitted under these regulations. Such fees shall consider the costs and resources to administer, operate, and enforce these regulations and be used to support this work. Fees shall be paid annually and cannot be waived. Fees shall not be refunded if the applicable service has been performed. Failure to pay Public Swimming Pool Permit fees shall be cause for the Health Director to issue an order to stop operating and to take appropriate legal action against the owner. All fees shall be payable to the Health Department.

100 Polluted or Unsafe Water.

No body of water in the Health Department's jurisdiction shall be used for public swimming or bathing purposes by any person if it:

- a. Contains sewage, waste, microorganisms, toxins, or other contaminants, pollutants or hazardous substances rendering the water a significant health risk, or
- b. Is determined by the Health Director to be unsafe for any other reason due to a significant health risk.

110 Inspections and Enforcement.

The Health Director is hereby authorized and directed to make such inspections to determine satisfactory compliance with these regulations, provide technical assistance and education, and take enforcement action when necessary to gain compliance.

- a. The Health Director shall conduct inspections as frequently as deemed necessary to protect public health and ensure compliance with these regulations.
- b. Upon presentation of proper credentials, the Health Director may enter any building, structure, or premises having a Public Swimming Pool at any reasonable time to conduct an inspection to determine compliance with these regulations.
- c. An owner or operator shall allow the Health Director to inspect at any reasonable time for the purpose of determining compliance with the provisions of these regulations. Denying the Health Director right of entry to conduct an inspection shall be grounds for immediate suspension or revocation of the Public Swimming Pool permit.
- d. The Health Director shall record inspection findings on a report. Upon completion of the inspection, a copy of the inspection report shall be provided to the Public Swimming Pool owner, owner's representative, and to the Public Swimming Pool Operator responsible for the pool.
- e. Whenever the Health Director finds a violation that poses a significant health risk that cannot be immediately corrected, the Health Director shall order the Public Swimming Pool to be immediately closed by issuing a closure notice, a suspension notice, or revocation notice. Such notice shall:
 1. Identify the specific provision(s) of these regulations found to be in violation.
 2. Be issued to the owner, operator or owner's representative as provided in section 130.
 3. Require the pool to be kept closed until the Health Director determines by inspection, or other acceptable proof, that compliance has been achieved, or until a hearing has been held and a determination made regarding any additional requirements that might be necessary to ensure that significant health risks will not reoccur.
 4. State that failure to correct the violations may result in prosecution as provided in section 190
 5. State that the owner may request a hearing before the Health Director by submitting a written or electronic request with the Health Director.
- f. The completed inspection report form and any notice are public documents that shall be made available according to State law.

120 Permit; Suspension, Revocation.

Any permit issued under these regulations may be suspended or revoked at any time by the Health Director for violation of Neb. Rev. Stat. §§ 81-15,264 to 81-15,270, Title 196 Nebraska Administrative Code Chapter 1: Design, Permitting, and Construction of Swimming Pools, Title 196 Nebraska Administrative Code Chapter 2: Minimum Sanitary and Safety Requirements for Swimming Pools or any of the provisions of these regulations or other regulations adopted by the Board of Health. Any permits granted under these regulations shall be subject to suspension or revocation in the following manner:

- a. The Health Director shall serve notice as provided in Section 130.
- b. The Health Director may suspend or revoke the permit for a period of time not to exceed ninety days.
- c. The suspension or revocation shall be effective immediately upon issuance of notice.
- d. The person notified shall have a right to a hearing which the Health Director shall conduct in accordance with Section 150.
- e. Continuing to operate or cause, permit or allow use of the Public Swimming Pool after receiving notice of suspension or revocation of the permit is a violation of these regulations.

- f. Requests for reinstatement, hearing, or appeal shall not stay or delay a suspension or revocation in any manner.

130 Notice; Service.

- a. The Health Director may serve notice regarding any suspension or revocation of a permit under these regulations as follows:
1. By personal service to the owner, operator or owner's representative; or
 2. By certified mail, postage prepaid, return receipt requested to the owner's or permit holder's last known address as indicated on the application for the permit.
- b. The person making personal service may provide a written declaration under penalty of perjury identifying the person served and the time, date, and manner of service as proof of service.
- c. If the service of notice is to a person other than the owner, the Health Director may send a copy of the notice to the owner by regular mail. The copy is not required as part of the notice, and receipt of the copy does not affect the notice.

140 Suspended Permit; Reinstatement.

- a. Any person whose permit has been suspended may apply for reinstatement following a period of suspension. The application shall include a signed statement that the conditions causing suspension has been corrected.
- b. The Health Director shall review the application for reinstatement or inspect the Public Swimming Pool within five business days after receiving the application for reinstatement.
- c. The Health Director shall reinstate the permit if the conditions causing suspension of the permit have been corrected.

150 Enforcement Hearings.

- a. The Health Director shall conduct hearings no later than:
1. Five business days after a request for a hearing after a suspension or revocation, or
 2. Ten business days after any other request.
- b. The Health Director may serve as the hearing officer or appoint a suitable hearing officer to hear the matter. If the Health Director appoints a hearing officer, they shall make recommendations based on the evidence adduced at the hearing for the Health Director's final determination of the matter.
- c. The hearing does not have to be conducted according to the technical rules relating to evidence and witnesses. The person requesting the hearing and the Health Director may:
1. Call and question witnesses on any matter relevant to the issues of the hearing;
 2. Introduce documentary and physical evidence; and
 3. Ask questions on any matter relevant to the issues of the hearing.
- d. The Health Director may uphold, reverse, or modify the findings prompting the request for hearing and may take such other reasonable action as determined proper in relation to the request.
- e. The Health Director shall make a final determination within ten business days after the day of the hearing.
- f. The Health Director's decision shall be final and binding upon the person making the request. Such decision may be appealed to district court as provided by law.

160 Appeals.

- a. If the Health Director denies any application or fails or refuses to issue a permit under these regulations within thirty business days from the date of receiving a complete application, such decision may be

appealed to the district court as provided for by law.

- b. Any Public Swimming Pool owner aggrieved by a final decision by the Health Director in the administration or enforcement of these regulations may appeal such decision to the district court as provided by law.

170 Variances.

Requests for variances from the design and construction standards must be submitted to and approved by the Nebraska Department of Water, Energy and Environment. The owner shall provide the Health Director with a copy of the request for variance.

180 Liability of Owner; Limits.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of these regulations, by an officer, director, manager or other agent or employee of any owner if said act is committed or omission is made with the authorization, knowledge, or approval of the owner, shall be deemed and held to be the act of such owner.

190 Penalty.

Any person upon whom a duty is placed by the provisions of these regulations who shall fail, neglect, or refuse to perform such duty or who shall violate any of the provisions of these regulations may be prosecuted in accord with Nebraska statute for a Class III misdemeanor. Each day that a violation of these regulations continues shall constitute a separate and distinct offense.

200 Severability and Savings Clause.

- a. Each section and each subdivision of a section of these regulations is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the passage of these regulations is concerned and invalidity of any section or subdivision of a section of this title shall not invalidate any other section or subdivision of a section thereof.
- b. These regulations shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any regulation or part of any regulation hereby repealed; and this title shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulation or part of any regulation hereby repealed.