

DISTRICT ORDER NO. 2024-1

NORTHEAST TEXAS PUBLIC HEALTH DISTRICT

**ADOPTION OF TEXAS DEPARTMENT OF STATE HEALTH SERVICES
STANDARDS FOR PUBLIC SWIMMING POOLS, SPAS, PUBLIC
INTERACTIVE WATER FEATURES AND FOUNTAINS, LAGOONS, SURF POOLS
AND AQUATIC FACILITIES AS AMENDED**

WHEREAS, it is intent of the Northeast Texas Public Health District to protect the public health, safety, and welfare; and

WHEREAS, the Northeast Texas Public Health District is a governmental entity created pursuant to Texas Health and Safety Code, Sec. 121.041 et. seq. and is the designated regulatory authority with jurisdiction over public swimming pools, spas, bathhouses, and associated facilities; and

WHEREAS, the Texas Health and Safety Code at Sections 121.043(a) and 121.006 authorizes the Northeast Texas Public Health District to adopt rules to charge certain fees for public health services and that those fees may be applied uniformly throughout NET Health jurisdiction; and

WHEREAS, pursuant to the Texas Health and Safety Code, Section 341.064, the Northeast Texas Public Health District may require that the owner or operator of a public swimming pool, spa, or bathhouse obtain an original permit for operation of the aquatic venue and annual renewal permits, and pre and post-permit inspections may be conducted

by the District to ensure that public swimming pools, spas, and bathhouses within its jurisdiction are being operated in a sanitary condition and consistent with Texas Administrative Code, Title 25, Part I, Chapter 265 General Sanitation, Subchapter L, Standards for Public Pools and Spas, Rule Sec. 265.181 et.seq. implementing standards required by Texas Health and Safety Code, Sec. 341.064 (g); and

WHEREAS, pursuant to the Texas Health and Safety Code, Section 341.0695 defines public interactive water features and fountains (PIWF), the Northeast Texas Public Health District may require that the owner or operator of a public interactive water feature or fountain obtain an original permit for the operation of the public interactive water feature or fountain and annual renewal permits; and

WHEREAS, Texas Administrative Code, Title 25, Part I, Chapter 265 General Sanitation, Subchapter M, Public Interactive Water Features and Fountains, Rule Sections 265.301 – 265.308 establishes the requirements for the minimum sanitation standards for public interactive water features and fountains; and

WHEREAS, both civil and criminal enforcement procedures as authorized by the Texas Health and Safety Code, Sections 341.091-.092 allow the Northeast Texas Public Health District to file criminal charges and/or assess civil penalties against owners or operators in violation of either permitting or inspection requirements or closure orders issued per authority of Section 341.064(o); and

WHEREAS, Senate Bill (S.B) 1732, 81st Legislature, Regular Session, 2009, amended Texas Health and Safety Code Chapter 341 by requiring safety standards at least as stringent as the Federal Virginia Graeme Baker Pool and Spa Safety Act; and

WHEREAS, Senate Bill (S.B.) 1324, 84th Legislature, Regular Session, 2015, amended Texas Health and Safety Code, Chapter 341 by allowing the consumption of food and beverages in privately owned public pools and spas; and

WHEREAS, House Bill (H.B.) 1468, 85th Legislature, Regular Session, 2017, amended Texas Health and Safety Code Sec. 1.005 by creating a category of a recreational water facility that would not be defined and regulated as an aquatic venue but as an artificial swimming lagoon; and

WHEREAS, House Bill (H.B.) 2858, 86th Legislature, Regular Session, 2019, amended Texas Local Government Code Chapter 214 by adopting the International Swimming Pool and Spa Code as the municipal swimming pool and spa code; and

WHEREAS, the Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), previously adopted the repeal of Sections 265.181 – 265.208 and new Sections 265.181 - 265.211, concerning Public Swimming Pools and Spas; and

WHEREAS, new Sections 265.181 – 265.206, and 265.208 - 265.111, were adopted with changes to the proposed text as published in the July 24, 2020, issue of the *Texas Register* (45 Tex Reg 5088); and

WHEREAS, the repeal of prior Sections 265.181 – 265.208 and new Section 265.207 were adopted without changes; and

WHEREAS, the new rules provide construction, sanitation, and operational requirements for public pools and spas in accordance with good public health engineering practices intended to protect the health and safety of users, and to reduce to a practical minimum the possibility of drowning or of injury to users; and

WHEREAS, the new sections and the repeal in Chapter 265, Subchapter L were necessary to comply with state legislation; and

WHEREAS, the changes to Texas Administrative Code Title 25, Part 1, Chapter 265, Subchapter L., were effective January 1, 2021, and January 1, 2023; and

WHEREAS, on January 24, 2013, the Northeast Texas Public Health District Board previously adopted District Order No. 2013-1 establishing standards for public swimming pools, spas and public interactive water features and fountains; and

WHEREAS it is important to revise and update District Order No. 2013-1 to reflect the most recent changes in State law;

NOW, THEREFORE, BE IT ORDERED by the Northeast Texas Public Health District Board that District Order No. 2013-1 is hereby amended by adopting a new District Order No. 2024-1 as set forth herein.

PART 1:
PUBLIC SWIMMING POOL, SPA, ARTIFICIAL SWIMMING LAGOONS, PUBLIC
WATER FEATURE REGULATIONS AND BATHHOUSES.

SECTION I. Incorporation and Adoption of Texas Department of State Health Services Standards and Applicable Texas Administrative Code Rules and Regulations.

A. Rule Adoption. The Northeast Texas Public Health District Board of Health hereby adopts and incorporates herein by reference the rules found in Texas Administrative Code, Title 25, Part I, Chapter 265, Sections 265.181 through 265.198, as amended, implementing Texas Health and Safety Code Section 341.064 regarding the regulation of public pools and spas in this jurisdiction, Sections 265.153-265.174 regarding the regulation of artificial swimming lagoons, as well as Texas Health and Safety Code Section 341.0695 regarding the regulation of public interactive water features and fountains and Texas Administrative Code, Title 25, Part 1, Chapter 265, Sections 265.301 through 265.308.

B. Conflicts. In the event of any conflict between the provisions adopted in subsection (A) of this Section and the other provisions of this Order, the other provisions of this Order shall prevail.

SECTION II. Definitions.

The definitions found in Texas Administrative Code, Title 25, Part 1, Chapter 265, Sections 265.181 through 265.198 regarding the regulation of public pools and spas, as amended, as well as Sections 265.301 through 265.308 regarding the regulation of public interactive water

features and fountains, shall apply to this Order except as such terms may be otherwise defined herein.

A. Administrator. The term “Administrator” shall mean the Northeast Texas Public Health District designated by the Northeast Texas Public Health District Board of Health to administer and/or enforce the provisions of this Order and any person or persons designated by such a division or department to represent the division or department for said purposes.

B. Aquatic Facility. An aquatic facility means a physical place that contains one or more aquatic venues and support infrastructure.

C. Aquatic Venue. This is a broad term that means an artificially constructed structure or modified natural structure where the general public is exposed to water intended for recreational or therapeutic purpose. An aquatic venue is operated by an owner, lessee, operator, licensee or concessionaire, regardless of whether a fee is charged for use. Such structures do not necessarily contain standing water, so water exposure may occur via contact, ingestion, or aerosolization. Examples of aquatic venues include pools at residential facilities larger than a duplex, home owner association, lodging facilities, therapy pools, wading pools, swimming pools, wave pools, lazy rivers, surf pools, spas (including spa pools and hot tubs), waterslide landing pools, spray pads, and other interactive water venues, or artificial lagoons.

D. Major Modification. A major modification is a change in the original permitted design of the aquatic facility. These types of changes could include a change in pool structure, a change in size or type of circulation equipment; or a change that affects flow or turnover of the body of water.

- E. Minor Modification.** A minor modification is a change in the original permitted design of the aquatic facility, but the change does not change the pool structure, it does not affect or change the designed turnover or flow rate. It may include a change in appurtenances or change in configuration of equipment but not size or type of equipment.
- F. Modify or Modified or Modification.** The term "modify" or "modified" or "modification" shall mean the replacement of or modification to a pool structure, circulation system and/or appurtenances such that the design, configuration, and/or operating characteristics are different than the original design, configuration, and/or operating characteristics, but does not include normal maintenance and repair or the replacement of equipment which had been previously approved, provided that the type, size, and/or operating characteristics of the equipment are not substantially different than the original equipment.
- G. Person.** The term "person" shall include private, not-for-profit, or governmental entity.
- H. Person In Charge.** The person in charge is responsible to ensure that the aquatic facility complies with state and local standards. This person can be the owner of the property upon which the aquatic facility is located, or the operator, business manager, complex manager, property owners association manager, rental agent, lessee, licensee, concessionaire, or other individual who is in charge of the day to day operations or maintenance of the property.
- I. PIWF-Public Interactive Water Feature and Fountain.** A PIWF includes any indoor or outdoor installation maintained for public recreation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons in various arrays for the purpose of wetting the persons playing in the spray streams. It may be a

stand-alone PIWF, also known as a splash pad, spray pad, or wet deck, or may share a water supply, disinfection system, filtration system, circulation system, or other treatment system that allows water to co-mingle with a pool. The installation and operation must meet the standards set in Section 341.0695 (a) through (h), Texas Health and Safety Codes.

- J. Property Owner** - means the person or persons or legal entity or entities holding interests of record to the Property or any portion of the Property.
- K. Pool Permit.** The term "pool permit" shall mean the permit required for any aquatic facility by the provisions of this Order. The term does not include any other permit required for the construction of a public pool, spa, PIWF or aquatic facility, and the issuance of a permit under the provisions of this Order shall not be construed to exempt a fountain aquatic facility from any other applicable legal requirements, including without limitation the requirement to obtain a building permit or any other permit required by law
- L. Registered Certified Pool Operator.** A person who provides the below credentials and applies with Administrator for registration to provide Certified Pool Operator service in NET Health jurisdiction.
 - 1) Provides certification showing successful completion of one of the following nationally recognized courses in aquatic facility operation, safety and management:
 - a) National Recreation and Park Association, "Aquatic Facility Operator" (A.F.O.);
 - b) Pool and Tub Association, "Certified Pool-Spa Operator" (C.P.O); or
 - c) Other training at approved by the Administrator.

M. Service Animal - means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

N. State Aquatic Facility Regulations - means the regulations adopted by the state of Texas to regulate public pools and spas, and includes the following, as amended from time to time:

- 1) Texas Health and Safety Code Title 5, §341.064 "Swimming Pools and Bathhouses," as amended, and
- 2) Texas Health and Safety Code Chapter 757 "Pool Yard Enclosures"; as amended, and
- 3) Texas Health and Safety Code Title 5, §341.0645 "Pool Safety;" as amended, and
- 4) Texas Health and Safety Code Title 5, §341.0695 "Interactive Water Features and Fountains;" as amended, and
- 5) Texas Health and Safety Code Title 5, §1.005 "Definitions;" as amended, and
- 6) Texas Administrative Code Title 25, Part I, Chapter 265 Subchapter K, "Standards of Artificial Swimming Lagoons;" as amended, and
- 7) Texas Administrative Code Title 25, Part I, Chapter 265 Subchapter L, "Standards of Public Pools and Spas;" as amended, and
- 8) Texas Administrative Code Title 25, Part I, Chapter 265 Subchapter M, "Public Interactive Water Features Fountains," as amended.

O. Basic Pool Operator - means the individual onsite during operating hours responsible for maintaining an aquatic facility under the direction of the registered certified pool operator.

SECTION III. Public Pool, Spa, PIWF and Other Aquatic Facilities Permit, Permit Requirements and Fees.

- A. Permit Required.** No person shall operate a aquatic facility without a valid permit for each body of water, interactive water feature or fountain issued by the Administrator, the Northeast Texas Public Health District.
- B. Valid Permit.** A pool permit is one that has been reviewed, inspected, paid and approved to operate by NET Health. A pool permit that has been revoked, that has expired, or that has lapsed for any reason is not a valid permit. A suspended pool permit is not valid during the period of suspension. A reinspection for compliance and payment of permit reinstatement fee of \$150.00 is required for any suspended permit.
- C. Posting of Permits.** A valid pool permit shall at all times be available on the premises for inspection and shall at all times be displayed in public view.
- D. Issuance of Permit. Duration. Annual Renewal Requirement.**
- 1) The Administrator shall issue a pool permit to any person making an application in NET Health jurisdiction; provided that the person complies with the requirements of this Order and the annual permit fee of \$300.00 is paid. An establishment with multiple public swimming pools, spas, PIWF or aquatic facility at the same location shall pay \$300.00 for the first swimming pool or spa, \$300.00 for the first PIWF or aquatic facility and \$200.00 for each additional swimming pool, spa, PIWF or aquatic facility at the same location.
 - 2) Pool permits shall expire one year from date of issuance, unless the annual permit fee is paid, or unless the permit is suspended for cause before expiration date.
Pool permit renewal fees per pool, spa, PIWF or other aquatic facility permit must

be paid in full prior to issuance of any renewal permit. A late fee of \$100.00 shall be charged when the fee for the renewal of a permit is not paid before the due date of the permit renewal invoice. Administrative penalties or fines can be applied for operating without a valid permit.

- 3) Pool permits that lapse solely due to non-payment of the annual permit fee will be reinstated upon payment of the annual permit fee and the late fee.

E. Permits Not Transferable. A permit is not transferable from one person to another or from one location to another location, except as otherwise permitted by this Order. A pool permit shall permit the operation of the pool, spa, PIWF or aquatic facility only at the location and for the owner or operator for which granted.

F. Required Language. Every permit issued by the Administrator pursuant to the provisions of this Order shall contain on its face the following language or language substantially similar thereto: “Although the Northeast Texas Public Health District attempts to inspect public pools, spas, PIWF or aquatic facility and to enforce applicable Texas Department of State Health Services regulations, a valid Northeast Texas Public Health District permit does not guarantee that the inspected pool, spa, PIWF or aquatic facility is safe. The Northeast Texas Public Health District does not warrant that any public pool, spa, PIWF or aquatic facility, whether inspected or uninspected, is compliant with federal, state, or local regulations.”

SECTION IV. Permit Application Procedure. Application, Plan Review and Plan Review Application Fees.

A. Plan Review Application. Whenever a new public pool, spa, PIWF or aquatic facility is

to be constructed or modified or at anytime there is a change of ownership, application for a plan review and public pool, spa, PIWF or aquatic facility permit shall be made in writing on the form provided by the Administrator.

B. Professional Confirmation of Plans. Whenever plans and specifications are required to be submitted to the administrator, a registered professional engineer or architect must confirm, by letter and seal, that the swimming pool was designed, constructed and/or modified in compliance with the applicable provisions of the Texas Department of State Health Services Standards for Public Swimming Pools and Spas and the 2021 International Swimming Pool and Spa Code, as amended.

C. Construction Plans to Be Submitted. Whenever a pool or a spa is constructed or plans to undergo a major modification, properly prepared plans, scope of work, construction professionals verification and specifications for such construction or modification, along with the plan review application and fee, shall be submitted to the administrator for review and approval before construction or modification is started.

D. Plan Contents. The plans and specifications shall indicate.

- 1) the site plan reflecting the location of the pool in relation to other structures on property and the utility connections for water supply and waste water discharge.
- 2) architectural drawings reflecting the electrical, plumbing and structure of the buildings, restrooms, equipment room, supply room, and other pool related areas
- 3) Landscape and/or fencing plans to show what structures or features are in and around the fence perimeter of the pool yard enclosure.
- 4) Deck and pool yard equipment and finish schedule
- 5) All Pool Detail to confirm compliance with ISPSC and Texas Health & Safety

Code. Examples of detail include but are not limited to the top view and elevation of the body of water, all signage and markers, all safety equipment, mechanical, plumbing, electrical, the type and model of proposed fixed equipment and finishes.

E. Engineer to Examine Plans. A licensed professional engineer must certify by letter and seal that to the best of his/her knowledge, information and belief the public swimming pool, spa, PIWF or aquatic facility was designed to comply and as described complies with present statutes of the Texas Administrative Code, Title 25, Part 1, Chapter 265 and Sections 341.064, 341.0645 and 341.0695 of Health and Safety Code, Chapter 341 and for Texas Health & Safety Title 9, Subtitle A, Chapter 757 regarding pool yard enclosures.

F. Review of Plans. No work shall begin until NET Health has received the engineer's certificate of pre-construction, conducted a plan review and the Environmental Health Department has completed the plan review. Deviations from approved plans shall not be permitted without approval in writing from the Administrator. If no work has begun within 6 months from the date the Environmental Health Department has completed the plan review or if work has begun and is halted more than 60 days, the Administrator may withdraw approval.

G. Plan Review Inspections. The public pool, spa, PIWF or aquatic construction shall pass a pre-gunite inspection, pre-plaster inspection, and preliminary inspection before making application for preoperational inspection by the Administrator prior to issuance of a permit. The completion of these inspections by NET Health does not substitute or replace inspections required by other departments or agencies.

- H. Compliance with Other Codes.** It is the responsibility of the person in charge to ensure that the permit applicant and licensed professional engineer comply with all zoning, building, fire, and other applicable laws and regulations not governed by NET Health.
- I. Variance.** If a variance to this article is issued by the Environmental Health Department. The granting of a variance does not guarantee that the Administrator will grant future variances
- J. Plan Review Fees.** An application fee must accompany the Application for a Plan Review and Permit for each public pool, spa, PIWF or aquatic facility and any other aquatic facility. The fee must accompany the included properly prepared plans and specifications.
- 1) New Construction plan review fee - \$375.00
 - 2) Major modification - \$250.00
 - 3) Change of ownership or minor modification - \$175.00
- K.** A separate application for a permit, submission of plans, and a separate application fee is required for each public pool, spa, PIWF or aquatic for which a permit is sought.
- L.** After the Administrator reviews the application and plans and conducts an inspection to ensure compliance with standards adopted herein, applicant will be notified and where an application has been approved, permit shall be issued after the owner/operator pays the permit fee.
- M.** A person commits an offense if the person makes a false statement on any application, report, or other documentation required to be submitted to the Administrator under the provisions of this Order and shall be deemed guilty of a misdemeanor and shall be subject to a fine as provided in this Order.

SECTION V. Payment of Fees.

- A. Submission of Payment.** The requirements for permits and administrative fees of this Order shall require the payment to be submitted to the Administrator. All fees ordered herein are non-refundable.
- B. Fee Exemption for Certain Aquatic Facilities.** Although permits and inspections are required, fees will not be charged for pools, spas, PIWF or aquatic facility owned and operated by the City, a public school district, or other governmental entity.

SECTION VI. Training and Certification Requirements.

- A. Designation of Registered Certified Pool Operator.** The permit holder shall designate a registered certified pool operator and person in charge for each facility for which a permit is sought. The person in charge can be the permit holder.
- 1) The person designated as the registered certified pool operator must be currently registered with NET Health and may be employed by the facility where the aquatic facility or facilities are located or contracted to provide service by the property.
 - 2) The registered pool operator must be able to physically respond to the facility address within one hour at the request of the person in charge or upon notification by the Administrator for an immediate public health concern.
- B. Certified Pool Operator Training.** A State approved training course and certification program required for daily management of all commercial pools and aquatic facilities. A person that successfully passes a certified pool operator training will provide certification showing successful completion of one of the following nationally recognized courses in

aquatic facility operation, safety, and management:

- 1) National Recreation and Park Association, "Aquatic Facility Operator" (A.F.O.);
- 2) Pool and Tub Association, "Certified Pool-Spa Operator" (C.P.O); or
- 3) Other training at approved by the Administrator.

C. Certified Pool Operator Requirements and Registration

- 1) The certified pool operator must
 - a) Become familiar with applicable pool rules and NET Health District Order
 - b) Maintain a valid and current Certified Pool Operator certificate
 - c) Register as a Certified Pool Operator with the Environmental Health Department if working at any aquatic facility permitted by NET Health.
 - d) Ensure that each property has onsite staff that hold a valid NET Health Basic Pool Operator Certificate and are trained to maintain the pool and pool yard during hours of operation while CPO is off property.
 - e) Meet the Environmental Health Inspector on site within an hour if notified of a critical issue with the facility which the CPO is registered to maintain.
 - f) Ensure the facility is in compliance with this Order,
 - g) The Registered Certified Pool Operator can be penalized for noncompliance by administrative penalty or fines.
 - h) Daily written record of critical water chemistry for each permitted body of water is required, and that these records must be retained for at least three years.
 - i) Ensure daily that the water chemistry is correct, all signage and safety equipment are in place and functional, that the enclosure is secure and

gates/latches are functional at all times.

- j) The Certified Pool Operator must close and lock all entrances to the aquatic facility enclosure in accordance with this Order if any of these items are out of compliance with this Order, or any other hazard exists that may pose a threat to health and safety,
- k) Notify the Environmental Health Department of NET Health within 30 calendar days of any change of status or termination with any properties that the CPO is registered to.

D. Basic Pool Operator Requirements. Each facility must have at least one person in charge of the premises during operational hours. If this person is not the registered certified pool operator for the property, this person must be currently certified as a basic pool operator and is under direction of the registered Certified Pool Operator for the Facility.

- 1) This person is responsible to ensure that water chemistry meets legal requirements, that all required signage and safety equipment is in place and functional, and that the enclosure is secure and gates/latches are functional at all times. If any of these items are out of compliance, or if any other hazard exists as outlined by this Order that is a threat to health and safety, it is the responsibility of this person to close and lock all entrances to the aquatic facility enclosure in accordance with this Order and to report the conditions to the Certified Pool Operator.
- 2) If there are no employees onsite with proper certification the pool must be closed until a person with proper training and pool maintenance certification returns.

E. Basic Pool Operator Training - means a training course taught or approved by the Northeast Texas Public Health District. The Administrator shall conduct a public swimming pool, spa, , PIWF or aquatic facility training course of instruction on the regulations, design, maintenance and operation of public swimming pools and spas.

- 1) A minimum of three trainings will be held each year. A training fee shall be \$65.00 for a one-year certification and a certificate of training shall be issued by the Administrator.
- 2) After the expiration of the one (1) year certification, an application must be processed for a new certificate, which will not be issued until the satisfactory completion of the training course.
- 3) The Training must be demonstrated within sixty (60) days of becoming employed. In lieu of attending training required by the Administrator, the person in charge may present proof of current Certified Pool Operator certification.

SECTION VII. Inspections.

A. Inspection Authority. The Administrator is authorized to conduct such inspections as the Administrator deems necessary to ensure compliance with all provisions of this Order. The Administrator shall have the right of entry at any reasonable hour upon the premises where a public pool, spa, PIWF or aquatic facility is located. The Administrator shall have the authority to collect water samples from the public pool, spa, PIWF or aquatic facility. The Administrator's authority to inspect public pools, spas, PIWF or aquatic facility includes, without limitation, the right to access any and all parts of the public pool, spa, PIWF or aquatic facility and the right to view and copy any or all of the

records relating to the construction or maintenance of the public pool, spa, PIWF or aquatic facility.

B. Permitting Inspections. Prior to the issuance of the initial permit, the Administrator shall inspect the aquatic facility for compliance with this District Order.

- 1) **Pre-Gunite Inspection.** This inspection is accomplished prior to the placement of gunite. All rough-in plumbing and electrical/bonding must be installed as well as reinforcement steel as drawn on the approved plans. The plumbing must be under pressure with a pressure gauge installed.
- 2) **Pre-Plaster Inspection.** This inspection is to be scheduled prior to any plastering or applying the final surface to the pool shell.
- 3) **Preliminary Inspection.** This inspection is to be scheduled at least 7 business days prior to the final permitting inspection.
- 4) **Permitting Inspection.** This is the final inspection at the completion of construction. Written permit approval is required from the Environmental Health Department of NET Health prior to opening the pool to the public.

C. Routine Inspections. Additional routine inspections shall be performed as often as necessary for the enforcement of this Order. It shall be solely the responsibility of the Administrator to determine the frequency of inspections to be made pursuant to this Order.

D. Inspection Based on Complaint. The Administrator shall have the authority to inspect a public aquatic venue based on complaints or other credible information indicating the possibility of a public health hazard or violation of this Order.

E. Minimum Inspection Standards for Public Pools or Spas. At a minimum, any public

aquatic venue inspected must comply with the following standards in order to pass inspection:

- 1) **Operations and Maintenance.** All pumps, filters, heaters, disinfectant and chemical feeders, drains, ladders, handrails, lighting, ropes, and appurtenant equipment used in the operation of all aquatic venues shall be maintained in a good state of repair and in compliance with provisions of the Texas Department of State Health Services Standards for Public Swimming Pools and Spas.
- 2) **Water Quality.** Every public pool shall contain a disinfectant concentration of a minimum free available chlorine of 1.0 parts per million (ppm) and a maximum free available chlorine of 8.0 ppm. As an alternative to the use of chlorine as a disinfectant, bromine may be used as a disinfectant in a pool. Every public pool using bromine as a disinfectant shall contain a disinfectant concentration of minimum free available bromine of 3.0 ppm and a maximum free available bromine of 10.0 ppm. Prior to use of any disinfectant other than chlorine or bromine, approval must first be obtained from the Texas Department of State Health Services.
- 3) Every public spa shall contain a disinfectant concentration of minimum free available chlorine of 2.0 ppm and maximum free available chlorine of 8.0 ppm. As an alternative to the use of chlorine as a disinfectant, bromine may be used as a disinfectant in a spa. Every public spa using bromine as a disinfectant shall contain a disinfectant concentration of minimum free available bromine of 4.0 ppm and a maximum free available bromine of 10.0 ppm. Prior to use of any disinfectant other than chlorine or bromine, approval must first be obtained from

the Texas Department of State Health Services.

- 4) Every public pool and spa shall comply with any applicable pH testing requirements and pH concentration standards as established Texas Administrative Code, Title 25, Part 1, Chapter 265.
- 5) **Chemical Test Kit.** The test kit for measuring disinfectant concentration must use the DPD (dimethyl-p-phenylenediamine) method. A pH test kit, accurate to the nearest 0.2 pH units, shall be provided at each public pool and spa. A test kit for measuring the concentration of the disinfectant, accurate within 0.2 mg/L, shall be provided at each public pool and at each public spa. The test kit must be able to measure between 1 ppm to 12.0 ppm. The owner, operator, and person in charge of each public aquatic venue are responsible for providing the required test kits. The Administrator may, at the Administrator's discretion, accept a test kit that uses another testing method if the method is approved by the Texas Department of State Health Services.
- 6) The maximum temperature of the water in any public aquatic venue shall be 104 degrees Fahrenheit. Each public spa shall be required to have an unbreakable thermometer able to accurately measure the temperature in degrees Fahrenheit.
- 7) Every public pool and spa shall comply with any applicable required chemical standards related to chlorine, bromine, or alkalinity, as established in Texas Administrative Code, Title 25, Part 1, Chapter 265.
- 8) The presence of coliform bacteria in any sample shall be deemed to constitute unacceptable water quality.
- 9) Every public pool and spa shall have water clarity sufficient for the main drain

and/or bottom to be clearly visible. Failure to meet this requirement shall be sufficient cause for immediate closure of the aquatic venue.

- 10) Every public pool and spa shall be free of scum and foreign floating matter, sediment, dirt, slime, algae, and all other foreign material that may be conducive to the transmission of disease.
- 11) The circulation system of a public aquatic venue must be in operation and properly maintained at all times in order to maintain the required turnover rate necessary to maintain water clarity according to this Section.
- 12) All systems for public pools or spas shall be designed and maintained to protect against entrapment, entanglement, or evisceration hazard and not constitute a hazard to users. All suction tests required under the provisions of Texas Department of State Health Services Standards for Public Swimming Pools and Spas must be performed as described and all reports submitted to the Administrator according to the dates prescribed.
- 13) Pool and spa water shall be continuously disinfected by a disinfectant agent, chlorine, or bromine, with a residual that can be easily measured by simple and accurate field tests. Water treatment chemicals shall be certified, listed, and labeled as required by Texas Administrative Code Title 25, Part 1, Section 265.200. Disinfection equipment shall be selected and installed so that continuous and effective disinfection can be achieved under all conditions. Use of compound chlorine gas is prohibited. Disinfectant feed systems shall have the capacity to maintain up to 5 parts per million (ppm) (or equivalent bromine level) in outdoor pools and spas and up to 3 ppm chlorine (or equivalent bromine level)

in indoor pools and spas under all conditions of intended use. Hand distribution of disinfectant chemicals, chemicals used to adjust pH, or algaecides is prohibited when users are in the aquatic venue. Before users reenter the aquatic venue following hand distribution of disinfectant chemicals, chemicals used to adjust pH, or algaecides the following shall apply:

- a) tests of disinfectant levels and pH shall be performed;
- b) the tests shall be performed 30 minutes after hand distribution; and
- c) no one may reenter the aquatic venue until the disinfectant levels and pH are checked and are found to be within the required range for disinfectant level and pH.
- d) Pursuant to Texas Health & Safety Code Section 341.064(b-1) and Texas Administrative Code Sec. 265.207(a), an owner or operator may apply to use an alternate method of disinfectant. Any alternative method of disinfection must receive prior approval by the Administrator.

14) Water introduced into the public aquatic venue shall be supplied through an approved air gap. Any other method of introducing water into the aquatic venue system must comply with the applicable plumbing code of the city.

15) Areas surrounding a public aquatic venue, including bathhouses, dressing rooms, toilets, shower stalls and lounging areas shall always be kept clean and in a state of good repair.

16) Disinfectant agents, other chemicals, and feed equipment shall be stored so that pool and spa users do not have access. Dry chemicals shall be stored off the floor in waterproof containers in a dry room and protected against flooding or wetting

from floors, walls and ceiling. Chlorine shall not be stored in the same storage room or storage area as petroleum products.

- 17) All signs required by this Order must be posted in accordance with the applicable requirements.
- 18) All public pools and spas must comply with the standards and requirements regarding depth markings.
- 19) All public pools and spas must comply with all applicable requirements regarding safety equipment.
- 20) Main drains and suction outlets, other than skimmers, shall be provided with anti-entrapment covers or grates. These covers or grates shall be secured in such a way that they can be removed only with the use of a tool.
- 21) All public pool and/or spa enclosures must be maintained in good repair and comply with applicable state and local construction requirements.
- 22) All gates to public aquatic venue enclosures must be self-closing and self-latching and meet any applicable construction requirements imposed under State and or local law, including without limitation any requirement imposed by the Texas Department of State Health Services Standards for Public Swimming Pools and Spas and/or by local ordinances.
- 23) When not in use for an extended period of time such as off-season, the public aquatic venue water quality need not be maintained if the gate to the enclosure is properly secured and locked; except that water clarity must be maintained and algae must not be allowed to grow.
- 24) At no time shall a public aquatic venue be allowed to give off objectionable odor,

become a breeding site for insects, or create any nuisance or safety hazard.

- 25) A person known to be or suspected of being infected with a transmissible condition of a communicable disease shall be excluded from a public swimming aquatic venue.

F. Minimum Inspection Standards for Public Interactive Water Features or Fountains.

At a minimum, any PIWF inspected must comply with the following standards to pass inspection:

- 1) In this Section, "public interactive water feature or fountain or PIWF " means an installation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons and that is maintained for public recreation.
- 2) An owner, manager, operator, or other attendant in charge of a PIWF shall maintain the public water feature or fountain in a sanitary condition.
- 3) The bacterial content of the water in a PIWF may not exceed the safe limits prescribed by the standards adopted under this TAC Title 25, Part 1, Chapter 265.
- 4) Except as provided by Subsection 6, minimum free residual chlorine of 1.0 part for each one million units of water used in a PIWF must be maintained.
- 5) Water in a PIWF may not show an acid reaction to a standard pH test.
- 6) The Texas Department of State Health Services may by rule adopt methods other than chlorination for the purpose of disinfecting PIWFs.
- 7) A PIWF that is supplied entirely by drinking water that is not recirculated is not subject to Subsections 4 and 5.
- 8) A person known to be or suspected of being infected with a transmissible condition of a communicable disease shall be excluded from a public interactive

water feature or fountain.

- G. Re-inspection Fee for Noncompliance.** When compliance is not met within the violation notice time frame a re-inspection will be conducted at a scheduled time during the regular working hours of the Administrator at the request of the owner or the person in charge of the aquatic facility. A re-inspection fee of \$100.00 is required for each public pool, spa, PIWF or aquatic facility. If compliance has been achieved, the Administrator shall notify the owner or person in charge of the pool, spa, PIWF or aquatic facility of said compliance. Upon such a determination of compliance and payment of re-inspection fee, the pool permit shall be reinstated upon lifting of the Closure Order if it was suspended (without being revoked) and the pool, spa, PIWF or aquatic facility shall be allowed to open. If there was not a valid pool permit due to any reason other than suspension, then a new permit must be obtained in order to open the public pool, spa, PIWF or aquatic facility.
- H. Violation Notice and Administrative Penalty.** If the pool, spa, PIWF or aquatic facility currently possesses a valid permit and the Administrator determines that the condition of the pool, spa, PIWF or aquatic facility is not immediately hazardous to the health or safety of its users or of the general public, the Administrator may specify a reasonable time period in which the pool, spa, PIWF or aquatic facility must be brought into compliance with the provisions of this Order. If the pool, spa, PIWF or aquatic facility is not brought into compliance within said time period, the Administrator may suspend the pool permit by issuance of a Closure Order until such time as the pool, spa, PIWF or aquatic facility is brought into compliance.
- I.** If a fee required under the provisions of this Order has not been paid, the Administrator

may suspend the pool permit through issuance of a Closure Order or deny a permit for said pool, spa, PIWF or aquatic facility until such time as the appropriate fee is paid.

SECTION VIII. Safety Features for Pools, Spas and Other Aquatic Facilities.

A. Equipment.

- 1) **Annual Electrical Inspection.** Each public aquatic facility shall also annually submit certification by a licensed, registered electrician that the electrical equipment for the aquatic facility meets all local, state, and federal electrical codes on a form promulgated by NET Health.
- 2) **General Safety Equipment.** All public pools shall meet any applicable safety features and equipment requirements established in Texas Administrative Code Title 25, Part 1, Section 265.190. The following rescue safety equipment shall be readily accessible, kept in good repair and ready condition at all public pools, excluding spas, PIWFs during all times they are open for use:
 - a) A strong, light, non-telescoping reaching pole not less than 12 feet long, including a body hook or shepherd's crook type of pole, having blunted ends, constructed of fiberglass, or other electrically non-conducting material;
 - b) A 1/4 inch to 3/8 inch diameter throw rope of a length of two-thirds $\frac{2}{3}$ of the maximum width of the pool to which has been firmly attached a United States Coast Guard (USCG) approved ring buoy with a maximum diameter of 24 inches; and
 - c) Class A and B public pools and any public pool which has a diving board

and/or slide shall meet minimum lifeguard standards as stated in Texas Health and Safety Code 265.191. These pools shall also have one or more backboards with a minimum of three tie down straps and head immobilizer for back and neck injuries, and a standard 24-unit first aid kit. At least one BVM (Bag-Valve Mask) and one portable AED (Automated External Defibrillator) must be kept in a secure location that can be easily and quickly accessed by lifeguards or other trained personnel.

- 3) Emergency Summoning Device.** Each public pool and each public spa shall have a minimum of one emergency telephone, emergency monitoring contact device or other alternate communications system capable of immediately summoning emergency service readily accessible within 200 feet unimpeded distance (an unlocked door or gate shall not be considered an impediment) of the aquatic venue water. water at all times. Where a aquatic venue has a seasonal operation schedule, the emergency summoning device must be functioning 24 hours a day during the entire season the aquatic venue will be in use.
- a) A sign indicating the direction to and location of the emergency summoning device if it is not visible in the pool yard.
 - b) Clear operating instructions for the emergency summoning device must be provided.
 - c) A sign must be clearly visible and posted above the emergency summoning device, whether it is a phone, emergency monitoring device, or alternative communication device with the precise location of the aquatic venue such as an address and city, building number, GPS location,

or other location identifying information in letters a minimum of 1-inch in height.

B. Signage for Pools, Spas and Other Aquatic Facilities.

1) General Signage Requirements. Signs shall be securely mounted as applicable, and readily positioned for effective visual observation by users within the pool yard unless otherwise indicate within the pool rules or as required by the Administrator.

a) Sign Materials. Sign panels shall be durable for the weather conditions and shall be resistant to damage from guests. The message surface shall be clean and smooth and shall readily accept paint or precut lettering adhesives.

b) Shape and Size Consistency. The panel shape and size for each class of signs shall be the same. Where the total message to be indicated is larger than what can be placed on one sign, multiple sign panels of the same size shall be used to display the message. Multiple messages are allowed to be combined on one sign.

c) Pictograms. Pictograms shall always be accompanied by text indicating the same message. Pictograms shall be designed to illustrate one clear and specific meaning to all individuals.

d) Theming and Artwork. Theming or artwork applied to signs shall not invade the message panel. Signs shall have a distinct border. The lettering must be easily read and in a contrasting color to the background.

2) Pools. All public pools shall meet any applicable signage requirements

established in Texas Administrative Code Title 25, Part 1, Section 265.190 (f).

Other required signage within the 2021 International Swimming Pool and Spa

Code that are required of pools are:

a) Safety signage advising on the danger of diving into shallow areas and on the prevention of drowning shall be provided as required by the Administrator.

b) **Emergency shutoff switch.** Signs shall be posted that clearly indicate the location of the pump emergency shutoff switch. Such switch shall be clearly identified as the pump emergency shutoff switch.

3) **Spas.** All public spas shall meet any applicable signage requirements established in Texas Administrative Code, Title 25, Part 1, Section 265. 190 (h) (4). Other required signage within the 2021 International Swimming Pool and Spa Code that are required of spas are:

a) **Do not allow the use of or operate spa if the suction outlet cover is missing, damaged or loose.**

b) **Check spa temperature before each use. Do not enter the spa if the temperature is above 104F (40C)**

c) **Keep breakable objects out of the spa area**

d) **Spa shall not be operated during severe weather conditions**

e) **Never place electrical appliances within 5 feet of the spa**

f) **No diving**

4) **Deck “NO DIVING” Marker and Symbol.** Where no diving markers and symbols are required in pools, the markers and symbols must comply with the

requirements in the International Swimming Pool and Spa Code (ISPSA) and with the following:

- a) The no diving marker and symbol may not be less than 4 inches in height. The no diving symbol must consist of a diver's profile in a circle with a 45-degree slash through the diver.
- b) The color of the letters and symbol must contrast with the background on which they are applied, and the color must be permanent in nature.
- c) The no diving markers and symbols on the deck must be slip resistant.
- d) The no diving marker and symbol on the deck must be within 18 inches of the water's edge and positioned to be read while standing on the deck facing the water.
- e) If a permanent structure above the pool deck is within 5 feet of the water's surface, the 4-inch no diving marker and symbol must be affixed to the structure so that the warning is visible to persons who may attempt to use the structure for diving. The no diving symbol and warning are not required on diving boards or diving platforms, ADA-compliant chair lifts, slide flumes, lifeguard stands, or bridges over the water.
- f) The no diving marker and symbol is not required on the interior tile line of a pool or in a spa.

5) Signage for Public Interactive Water Features or Fountains. Warning and notification signs shall be posted at the entrance, clearly visible to users entering the PIWF area before contact with the PIWF water occurs, when the PIWF is open or in use.

- a) **Required signage can be combined into a single sign.** The following notifications and warnings in letters at least 2 inches in height:
- i. "Non-Service Animals Prohibited;"
 - ii. "Changing Diapers Within 6 Feet Of The Water Feature is Prohibited;"
 - iii. "Use of the Water Feature If Ill With A Contagious Disease is Prohibited;"
 - iv. "Do Not Drink Water From The Water Feature; " and
 - v. "Use Of The Water Feature When Ill With Diarrhea is Prohibited. "
- b) **PIWFs without an on-site owner or operator.** At a PIWF without an on-site person in charge a sign shall be posted that provides a contact number to be used in the event of a malfunction, unsanitary condition, or any other non-emergency problem requiring correction at the PIWF. Letters and numbers on the posted sign shall be a minimum of 2 inches in height and the sign shall be clearly visible.
- 6) **Signage for Other Aquatic Facilities.** Signs stating rules, instructions, and warnings shall be posted clearly visible to users entering the aquatic facility. Signs shall be placed so that they squarely face approaching traffic. The center of the message panel shall be located not less than 66 inches above the walking surface.
- a) **Prohibited Mounting.** Signs shall not be mounted on fences and gates alongside of guest walkways and staircases.
 - b) **Message Delivery.** Messages delivered on signs shall comply with all of

the following:

- i. Messages shall be pertinent to the activity being performed or to be performed
 - ii. Messages shall be specific by providing details about the activity
 - iii. Messages shall be short and concise
 - iv. Messages shall be direct without humor or embellishments.
- c) **Text Font and Size.** The message text shall be in a clear, bold font such as Arial. The character height shall be proportional to 1 inch for 10 feet of intended viewing distance but not less than 1 inch.
- d) **Distinct Sign Classes.** Facility signs shall be categorized into four sign classes in accordance with the following:
- i. **General Information.** General information signs shall be posted facility-wide and shall not be attraction specific
 - ii. **Directional Signs.** Directional signs shall identify the location of services and attractions in the park and shall include directional arrows. Directional signs shall be posted at various crossroads in the facility.
 - iii. **Rule Signs.** Rule signs shall inform guests of the qualifications that they must meet to allow them to participate on a specific ride or attraction. Rules shall include, but are not limited to, limits for weight and height, proper attire and ride stipulations. Rule signs shall be located at a point where the guests make the initial commitment to participate on the ride.

- iv. **Instructional Signs.** Instructional signs shall inform guests of specific instructions for the use of the ride. Instructions shall include, but are not limited to, riding posture, prohibited activity, and user exit requirements at the ride termination. Instructional signs shall be located along the queue approaching the ride dispatch area.
- e) **Shallow Water.** Safety signs shall be in accordance with Section 412 of the 2021 ISPSC.
- f) **Cold Water.** Where a pool could have a water temperature below 70F(21C), a cold water warning sign shall be posted at the point of entry to the pool or at the attraction using such water.
- 7) **Drinking Water Provided.** At least one drinking water fountain or other source of drinking water, such as bottled water, must be provided and available for pool and spa users at all pools and spas constructed on or after October 1, 1999, and must be available at all times the aquatic venue is open for use. When the drinking water is not located in the pool yard or spa yard, a sign with letters a minimum of 1 inch in height is required. The sign must be posted so that it is visible to users that informs the users of the location of the drinking water.
- 8) **Unauthorized Entry Warning Signage.** When a aquatic venue is not in use, such as after seasonal operation, while under construction, renovation, or for any reason, entry to the pool yard or spa yard by users or other unauthorized persons must not be allowed. A sign must be posted on the entry gates indicating the pool and spa are closed.

9) Sign Tampering. A person commits an offense if the person removes, defaces, or makes illegible a sign or posting or any part of a sign or posting required by any provision of this Order and shall be deemed guilty of a misdemeanor and shall be subject to a fine as provided in this Order.

C. Depth Markers. Depth markings on each public pool and spa shall meet the applicable requirements of the Texas Administrative Code, Title 25, Part 1, Section 265.190 for Public Swimming Pools and Spas.

SECTION IX. Regulations in Public Pool, Spa, PIWF and Other Aquatic Facilities Area.

A person commits an offense if the person does any one of the following:

- A.** Allows an animal under his/her control to enter or remain within the area or enclosure of a public pool, spa, PIWF or aquatic facility, except that service animals may be allowed in the pool, spa, PIWF or aquatic facility area or enclosure and not in the pool, spa, PIWF or aquatic facility water;
- B.** Alters or removes safety equipment from a public aquatic venue except in an emergency or as part of the regular maintenance of said equipment;
- C.** Carries a glass container within a public pool, spa, PIWF or aquatic facility area or enclosure;
- D.** Has skin abrasions, open sores, skin disease, eye disease, nasal or ear discharge, diarrhea, or a communicable disease and bathes in a public or semi-public aquatic facility;
- E.** Alters or damages any part of a public aquatic facility enclosure or allows the aquatic facility enclosure to remain unsecured while the enclosure is under repair;
- F.** Alters or damages drain and/or suction outlet covers or grates;

- G. Interferes with or obstructs the Administrator while the Administrator is in the process of enforcing this article; or
- H. Is the certified pool operator or the person in charge and violates any provision of this article.

SECTION X. Duties of Person in Charge and/or Certified Pool Operator

- A. It shall be the duty of the certified pool operator and/or person in charge to:
 - 1) Keep facility manager or person in charge informed at all times the current safety and readiness status of the facility pool or pools the certified pool operator or person in charge is responsible for.
 - 2) To keep the Administrator immediately informed of any unsafe or events causing any health concerns; and
 - 3) Physically respond within one hour of being notified by the Administrator to the site of the aquatic facility; and
 - 4) Check at least once per day that the aquatic facility remains in compliance with this article and with state aquatic facility regulations; and
 - 5) Check and record water chemistry at least with frequency required by state regulations at each aquatic facility permitted to ensure compliance with state aquatic facility regulations, including:
 - a) Disinfectant levels; and
 - b) pH levels; and
 - c) Cyanuric acid levels (if applicable); and
 - d) Water balance; and

- e) any other test as needed.
- 6) Ensure that an appropriate method is used to check water chemistry as specified in state aquatic facility regulations; and
- 7) Retain records of daily water chemistry checks for at least three years on site; and
- 8) Ensure that the steps detailed herein are completed if any conditions exist that require temporary closure of public aquatic facilities as specified in this article; and
- 9) Register certification as a certified pool operator with Administrator. Current certification and registration is required to provide pool operator service to any public pool, spa, PIWF or other aquatic facility in NET Health jurisdiction. A copy of registration must be maintained on site at each facility that a Pool Operator services. A pool operator must notify the Administrator within 30 calendar days of leaving the service to a facility. Each time a pool operator adds or removes service to a facility, the Administrator must be notified.
- 10) The facility property person in charge is required to notify the Administrator of any pool operator status changes within 30 calendar days of any change.

SECTION XI. Enforcement Authority and Responsibility.

A. Administrator's Authority. The Administrator shall have the authority to enforce this Order.

B. City Attorney's Authority. If any person violates the requirements of this Order or any Order of the District issued pursuant to the provisions hereof, the City Attorney or designee, may take any and all legal actions necessary or appropriate to enforce said

requirements. The City Attorney or designee may seek any legal and/or equitable relief necessary or appropriate to prevent, stop, rectify, punish, or in any way obtain redress for any such violation. Such action by the City Attorney or designee may include, but is not limited to, enforcement in the municipal court, filing of appropriate civil actions in a court or courts of appropriate jurisdiction, or defending the City from suit.

C. Owner and Operator Responsibility. The owner and the person in charge of every public pool, spa, PIWF or aquatic facility shall be responsible for compliance with all parts of this Order relating to such public pool, spa, PIWF or aquatic facility maintenance; operations; and the safety of anyone using the public pool, spa, PIWF or aquatic facility.

D. Administrator's Responsibility. Although the Administrator, the Northeast Texas Public Health District, attempts to inspect public pools, spas, PIWF or aquatic facilities and to enforce applicable Texas Department of State Health Services regulations, a valid Northeast Texas Public Health District pool permit does not guarantee that the inspected public pool, spa, PIWF or aquatic facility is safe. The Administrator does not warrant that any public pool, spa, PIWF or aquatic facility whether inspected or uninspected, is compliant with federal, state or local regulations, including without limitation the regulations set forth in this Order.

SECTION XII. Closure of Pool, Spa, PIWF or Aquatic Facility.

Closure Orders. Failure to comply with any permitting, inspection requirements or closure orders pursuant to this Order may result in the denial or suspension of a pool permit, the closure of the public pool, spa, PIWF or aquatic facility at a specified time pursuant to a

Closure Order issued by the Administrator and/or the initiation of legal action, including but not limited to the filing of criminal charges at appropriate municipal or justice of the peace courts and/or the assessment of civil penalties of not less than \$10.00 or more than \$200.00 for each violation and for each day of a continuing violation.

A. Temporary Voluntary Closure. The person in charge or the registered certified pool operator must voluntarily close the aquatic facility if an imminent hazard exists. An imminent hazard is any condition that places the pool user at immediate risk of injury or illness. Examples of imminent hazards are:

- 1) The emergency phone on site is absent, missing, or not functioning;
 - 2) The water chemistry of the aquatic facility is outside of required legal limits or is hazardous to public health and safety;
 - 3) This refers especially to levels of free chlorine, pH, and cyanuric acid/stabilizer;
 - 4) Lifesaving equipment or signage is damaged or missing;
 - 5) The safety vacuum release system (SVRS) (if required) is not working;
 - 6) Drain or suction outlet covers become damaged or detached;
 - 7) The bottom of the aquatic facility cannot be clearly seen at any part of the water body;
 - 8) The aquatic facility equipment ceases to circulate;
 - 9) The facility enclosure is damaged;
 - 10) The gates or doors to the aquatic facility enclosure fail to self-close and self-latch;
 - 11) An entanglement or entrapment hazard exists, regardless of the age of the facility;
- OR
- 12) Any other event exists that is hazardous to the health and safety of swimmers or

of the general public. Examples of other hazards may include:

- a) Potential electrical hazards;
- b) Potential falling hazards (i.e., unsafe trees near the water);
- c) Chemical spills in or near the facility enclosure;
- d) After adding chemicals to the water/during hyperchlorination/etc.; or
- e) After fecal contamination.

B. Grounds for Permit Suspension. If the Administrator determines that the condition of the pool, spa, PIWF or aquatic facility is hazardous to the health or safety of its users or of the general public, the Administrator shall immediately suspend the permit of the public pool, spa, PIWF or aquatic facility by issuing a Closure Order until such time as the condition of the pool, spa, PIWF or aquatic facility no longer poses a hazard to the health or safety of its users. The Administrator must reinspect the aquatic facility for compliance and the permit holder must pay a permit re-instatement fee before reopening to the public.

C. Grounds for Permit Denial. Upon determination that a public pool, spa, PIWF or aquatic facility does not comply with the provisions of this Order, the Administrator shall notify the owner or person in charge of the pool, spa, PIWF or aquatic facility of the existing violations. If the pool, spa, PIWF or aquatic facility does not have a permit or is applying for the renewal of an existing permit, the Administrator may deny the issuance of the requested permit until the violations are corrected. Any public pool, spa, PIWF or aquatic facility that does not possess a valid permit must be immediately closed. Any public pool, spa, PIWF or aquatic facility with a valid permit which has not been suspended or revoked and for which the renewal of the pool, spa, PIWF or aquatic

facility permit has been denied shall be closed immediately upon the expiration of the existing permit.

- D. Permit Revocation.** Any public pool, spa, PIWF or aquatic facility permit suspended for a period of more than thirty (30) days shall be automatically considered revoked. Any public pool, spa, PIWF or aquatic facility for which the permit has been revoked must reapply for a new permit pursuant to this Order in order to operate.
- E.** Signs shall be posted at all entrances to any public pool, spa, PIWF or aquatic facility that has been closed under the provisions of this Section. Said signs shall be clearly visible to a reasonably observant person and shall state, "Closed By the Northeast Texas Public Health District." Signs posted by the Administrator stating "Closed By the Northeast Texas Public Health District" shall not be altered or removed unless authorized by the Administrator.
- F.** When a public pool, spa, PIWF or aquatic facility does not have a valid permit in effect, the owner and the person in charge of such pool, spa, PIWF or aquatic facility shall not knowingly allow the pool, spa, PIWF or aquatic facility to be used for swimming, diving or bathing purposes and shall immediately take every reasonable step to prevent the use of such pool, spa, PIWF or aquatic for such purposes. By way of example and without limiting such duty, the owner or person in charge of the public pool, spa, PIWF or aquatic facility shall (1) immediately post notices reasonably likely to come to the attention of potential users of the pool, spa, PIWF or aquatic facility advising of the closure, and (2) immediately lock all gates and doorways in any fence or other enclosure surrounding such pool, spa, PIWF or aquatic facility-
- G.** Use of a public pool, spa, PIWF or aquatic facility by an individual for swimming,

diving or bathing purposes when the public pool, spa, PIWF or aquatic facility does not have in effect a valid permit shall be deemed prima facie evidence that the owner and the person in charge of said public pool, spa, PIWF or aquatic facility have knowingly allowed the public pool, spa, PIWF or aquatic facility to be used for such purposes.

- H. The Administrator may, based on the nature and extent of the violation(s) present, affix a lock or similar closing mechanism on the gate or gates leading to a public pool, spa, PIWF or aquatic facility that does not have in effect a valid permit.
- I. A person commits an offense if the person uses a public pool, spa, PIWF or aquatic facility that does not have in effect a valid permit and shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$10.00 nor more than \$200.00.

SECTION XIII. Criminal Penalty.

A person commits an offense if the person violates this Order, or a rule adopted under Texas Health and Safety Code Chapter 341. A person commits an offense if the person violates a permitting or inspection requirement or a Closure Order issued pursuant to this Order. An offense under this Section is a misdemeanor punishable by a fine of not less than \$10.00 or more than \$200.00.

- A. If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this Order within a year before the date on which the offense being tried occurred, the defendant shall be punished by a fine of not less than \$10.00 or more than \$1,000.00, confinement in jail for not more than 30 days, or both.
- B. Each day of a continuing violation is a separate offense.

SECTION XIV. Civil Enforcement.

- A. A person may not cause, suffer, allow, or permit a violation of this Order or a rule adopted under Texas Health and Safety Code Chapter 341.
- B. A person who violates this Order or a rule adopted under Texas Health and Safety Code Chapter 341 may be assessed a civil penalty. A person who violates a permitting or inspection requirement imposed under this Order, or a Closure Order issued pursuant to this Order shall be assessed a civil penalty. Civil penalties under this Section may not be less than \$10.00 nor more than \$200.00 for each violation and for each day of a continuing violation.
- C. If it is shown on the trial of the defendant that the defendant has previously violated this Order, the defendant shall be assessed a civil penalty of not less than \$10.00 or more than \$1,000.00 for each violation and for each day of a continuing violation.
- D. If it appears that a person has violated, is violating, or is threatening to violate this Order, a rule adopted under Texas Health and Safety Code Chapter 341, a permitting or inspection requirement, or a Closure Order made pursuant to this Order, the Texas Department of State Health Services, Smith County, a municipality within Smith County, or the Attorney General on request by the District Attorney or County Attorney, or with City Council approval the City Attorney or designee, may institute a civil suit in a District Court for either/or injunctive relief and civil penalty.
- E. The Texas Department of State Health Services is a necessary and indispensable party in a suit brought by a county or municipality under this Section.
- F. On request by the Texas Department of State Health Services, the Attorney General shall institute and conduct a suit in the name of the state for injunctive relief and civil penalty.

- G. Suit may be brought in Travis County, in the county in which the defendant resides, or in the county in which the violation or threat of violation occurs.
- H. In a suit under this Section and/or Texas Health and Safety Code Section 341.902 to enjoin a violation or threat of violation of this Order, a rule adopted under Texas Health and Safety Code Chapter 341, or a permitting or inspection requirement or Closure Order imposed herein, the court shall grant the Administrator, state, county, or municipality, without bond or other undertaking, any injunction that the facts may warrant, including temporary restraining orders, temporary injunctions after notice and hearing, and permanent injunctions.
- I. Civil penalties recovered in a suit brought under this Section and/or Texas Health and Safety Code Section 341.092 by a county or a municipality through its own attorney shall be equally divided between the State and the Administrator.
- J. The State is entitled to civil penalties recovered in a suit instituted by the Attorney General.

PART 2:

SEVERABILITY

That if any provision or any section of this Order shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Order, which shall remain in full force and effect.

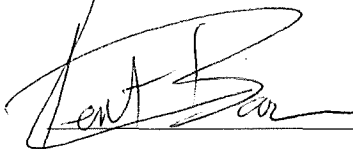
PART 3:

PENALTY

That any person, firm, or corporation violating any of the provisions of this Order shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided by law. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Any person, firm, or corporation violating any of the provisions of this Order may also be subject to appropriate administrative penalties, if applicable. Since this Order has a penalty for violation, it shall not become effective until proper notice to the public by publication of the notice that the Order exists. Furthermore, the revision to District Order No. 2013-1 shall not become effective until March 1, 2024.

PASSED AND APPROVED by the Northeast Texas Public Health District Board of Health this _____ day of _____, 2024.

Approved:



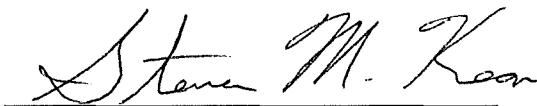
Kent Boozar, Board Secretary

Northeast Texas Public Health District



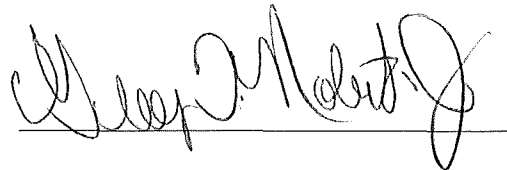
Allison Pollan, Board Chair

Northeast Texas Public Health District



Steven M. Kean, Board Attorney

Northeast Texas Public Health District



George T. Roberts, Jr., CEO

Northeast Texas Public Health District