

RULES GOVERNING PRIVATE OPERATION OF A

RECREATIONAL WATER FACILITY IN

DAVIDSON COUNTY, NORTH CAROLINA

ADOPTED BY THE DAVIDSON COUNTY BOARD OF HEALTH

EFFECTIVE DATE: JANUARY 1, 2019

Table of Contents

<u>Section</u>	<u>Page</u>
Section I – General Provisions	2
Section II – Definitions	3
Section III – Application Process	4
Section IV – Permitting Process	4
Section V – Operational Standards	5
Section VI – Inspections and Records Required	7
Section VII – Severability	8
Section VIII – No Implied Warranty or Guarantee	8
Section IX – Effective Date	8

SECTION I - GENERAL PROVISIONS

- A. Authorization – The Davidson County Board of Health is authorized under the provisions of Chapter 130A-39 of the General Statutes of North Carolina to adopt appropriate rules for the protection of the public health.
- B. Purpose – Consistent with the responsibility to protect and promote the public health, the Davidson County Board of Health requires that any private recreational water facility (RWF) conform to such standards and requirements as may be necessary to protect the public health and water resources.
- C. Scope – No person shall operate a RWF contrary to the provisions of these Rules. These Rules do not apply to recreational waters regulated by the North Carolina Department of Environment of Environmental Quality and the North Carolina Department of Health and Human Services and shall meet the siting and all other requirements of those departments.
- D. Conflict with other Laws and Regulations – The provisions of any federal, state, or municipal law or regulations establishing standards affording greater protection to the public welfare, safety, health, and the water resources shall prevail within the jurisdiction of such agency or municipality over standards established by these regulations.
- E. Penalties – Pursuant to North Carolina General Statute 130A-25(a), any person who violates a provision of the Rules adopted by a local board of health shall be guilty of a misdemeanor. Pursuant to North Carolina General Statute 130A-18, a local health director may institute an action for injunctive relief, irrespective of all other remedies in law, in the superior court of the county where the violation occurred or where a defendant resides.
- F. Jurisdiction – These rules shall apply to all of Davidson County including any municipalities located within Davidson County.
- G. Inspection – Prior to operation, any RWF shall be annually inspected and found to comply with the provisions of these Rules. The Health Director shall issue an operation permit annually.
- H. Appeals – Appeals concerning the enforcement of these Rules shall be in accordance with the provisions set forth in North Carolina General Statute 130A-24.

SECTION II - DEFINITIONS

The following definitions shall apply to these Rules, unless the context otherwise requires:

- A. Advisory Sign means a posted, visible to patrons, sign declaring water risks at the Recreational Water Facility. The advisory sign shall be constructed of durable, weather resistant material, legible, contain printed letters of a minimum of 2” in height, and read: “ATTENTION:

RECREATIONAL WATER IS NON-POTABLE AND NOT TREATED TO POTABLE STANDARDS. BE ADVISED THAT BACTERIA LEVELS MAY BE HAZARDOUS TO YOUR HEALTH."

- B. Alert Sign means a posted sign, visible to patrons, declaring elevated levels of E. coliform/Enterococci in the recreational water. The alert sign is only to be posted when water samples yield a level of 104 enterococci/100ml of H₂O or greater. The alert sign shall be constructed of durable, weather resistant material, legible, contain printed letters of a minimum of 2" in height, and read: "TODAY LEVELS OF BACTERIA ARE ABOVE RECOMMENDED STANDARDS. USE RECREATIONAL WATER FACILITY AT YOUR OWN RISK."
- C. Bimonthly water sample means a water sample taken two times in the same month. The samples shall be taken at a minimum of 14 days apart.
- D. Board of Health means the Davidson County Board of Health.
- E. Closure sign means a sign available for posting when water quality is deemed unsafe for recreational water use. This sign shall be constructed of durable, weather resistant material, legible, contain printed letters a minimum of 2" in height, and read: "RECREATIONAL WATER FACILITY CLOSED DUE TO UNSAFE CONDITIONS." This sign shall be posted in consultation with the Health Director when a water sample(s) are 500 enterococci/100ml of H₂O or greater.
- F. Health Department means the Environmental Health Division of the Davidson County Health Department.
- G. Health Director means the director of the Davidson County Health Department or authorized representative.
- H. Non-potable water means water potentially containing bacteria, minerals, organic or inorganic chemicals or petroleum products of such quantity as to render the water unsafe, harmful or generally unsuitable for human consumption.
- I. Operator shall mean a legal or equitable owner and or an agent who operates the recreational water facility (RWF).
- J. Owner shall mean any person having an equitable or legal interest in a private recreational water facility or the property upon which such facility is located.
- K. Permit means a written permit issued by the Health Director permitting the operation of a recreational water facility (RWF). A permit may only be issued after a water sample is taken indicates less than 104 enterococci/100ml of H₂O within two weeks of issuance.

- L. Person means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political corporations organized or existing under the laws of this state or any other state or country.
- M. Potable water means water of such quality that it is suitable for human consumption.
- N. Premises means all property within the recreational water facility (RWF) including recreational areas, buildings, parking, camping spaces, outdoor cooking areas, etc.
- O. Private operated recreational water facility (RWF) shall mean any privately owned body (bodies) of water where activities occur, including but not limited to: skiing, kayaking, canoeing, wakeboarding, diving, or swimming and there is a charge or fee for participation.
- P. Water Sample means a water sample taken in each permitted body of recreational water at a recreational water facility (RWF). Sampling points shall be determined individually (to each body of water) during the permitting process by the Health Director and operator. Sampling points shall be representative of the body of water as a whole.

SECTION III – APPLICATION FOR A RWF

A complete application shall be submitted to the Health Director by an owner or authorized agent who intends to operate a RWF. In the event that the applicant is not the owner of the property, the permit application must contain written approval from the property owner with a statement that the applicant is authorized to act on behalf of the property owner. The owner or authorized agent shall ensure the RWF to be in accordance of these Rules. The application will be valid for a period of one year from the date of submittal. The following information shall be required on the application:

1. Name, address and telephone number of the property owner and/or authorized agent.
 2. Address and Tax Identification information of the private recreational water facility.
 3. Intended recreational use.
 4. Water supply source(s).
 5. Signature of the property owner or authorized representative.
 6. Operation Schedule.
 7. Any other information deemed necessary by the Health Director.
- B. A permit fee, in the amount approved by the Board of Health, must be submitted with each RWF application, including annual renewal applications. Application for renewal of a RWF permit must be completed during the month of December. Late applications may be assessed a late fee determined by the Board of Health.

SECTION IV – PERMITTING OF A RWF

- A. It shall be unlawful for any person to operate a RWF without first obtaining a permit from the Health Department. It shall be the responsibility of the owner or operator to assure that a permit

is secured prior to facility operation. The Health Director may impose conditions on any RWF permit that is deemed necessary to comply with these Rules. Unless otherwise specified in writing by the Health Department, the permit shall be valid until December 31st of the permitted year. When a permit has become invalid, the RWF shall not operate until a new permit has been obtained.

- B. The Health Department must be notified if any of the following occur:
 - 1. Change in ownership of the facility.
 - 2. Change in operator of the facility.
 - 3. Change of intended use of the facility.
 - 4. Changes that affect water quality of the facility.
 - 5. Any other modifications that will change the conditions under which the permit was issued.
- C. The owner or operator shall maintain a copy of the permit on the premises at all times during operation of the facility. The owner or operator shall assure conditions of the permit can be met prior to beginning operation. The owner or operator shall contact the Health Department about any questions concerning conditions upon which the permit was issued or if permitted criteria appears to have been changed or altered.
- D. The Health Director is authorized to witness any portion of the RWF operation.
- E. The Health Director may suspend any permit issued pursuant to these rules and NC General Statute § 130A-20 upon a finding that the RWF poses a significant health risk.
- F. The Health Director may revoke any permit issued pursuant to these rules upon a finding that permit issuance was based upon incorrect or inadequate information materially affecting the decision to issue the permit, or upon a finding that the permitted operational conditions have changed. The Health Director shall give the permit holder a written notice of intent to revoke the permit by the Health Department, stating the reason or reasons for revoking the permit. The permit holder may appeal the decision to revoke the permit to the Board of Health in accordance with NC General Statute § 130A-24.

SECTION V – OPERATIONAL STANDARDS OF A RWF

- A. Water Quality
 - 1. Each operational RWF will assure that all recreational bodies of water are tested for E. coliform and Enterococci at a minimum of once a month during all months of operation. Bimonthly water samples shall be taken during the months of May, June, July, August,

and September if RWF is operating. Testing will be conducted by a method/lab approved by the Health Director.

2. Based on 15A NCAC 18A .3400 Rules –

- a. A single sample shall not exceed 104 enterococci/100 ml of H₂O.
- b. An alert sign shall be posted when a single sample contains ≥ 104 enterococci/100ml of H₂O, but $< 500/100\text{ml}$ of H₂O.
- c. In the event a water sample contains $\geq 500/100\text{ml}$ of H₂O enterococci, the RWF shall be closed, the Health Director notified immediately, and a closure sign shall be posted.
- d. Reopening of a RWF may occur after two consecutive water samples taken at minimum of 12 hours apart indicating $\leq 500/100\text{ml}$ of H₂O enterococci. The Health Director shall be present when the RWF is reopened.

3. The water supply for the recreational bodies of water is considered to be non-potable.

4. The water supply for the service building and all drinking sources shall be from an approved, potable water supply source.

B. Signage

1. Every RWF shall post at minimum one legible advisory sign during normal operation, in a conspicuous place, approved by the Health Director that provides health risk information.
2. Every RWF shall maintain at minimum one alert sign on the premises to be posted when necessary in a conspicuous place approved by the Health Director.
3. Every RWF shall maintain at minimum one closure sign on the premises to be posted when necessary in a conspicuous place approved by the Health Director.

C. Restrooms – Each RWF shall have a service building containing sanitary facilities for patrons, staff, and spectators that provide the following:

1. Partitions shall be of material, not subject to damage by water and shall be designed so that a waterway is provided between partitions and floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.
2. Flooring in dressing areas and showers shall be continuous throughout the areas. Floors shall have a slip-resistant surface that shall be smooth, to insure complete cleaning.

3. Hose bibs shall be provided such that all parts of the dressing facility interior can be reached with a 50 foot hose.
 4. One water closet, one lavatory, and one urinal shall be provided for up to 100 male users. One additional water closet, lavatory, and urinal shall be provide for each additional 200 male users, up to a total of 500 users. Where user load exceeds 500 male users, two additional water closets or urinals and one lavatory shall be provided for each additional 250 male users. Where the maximum bather load include less than 50 male users, one water closet and one lavatory will be sufficient.
 5. Two water closets and two lavatories shall be provided for up to 100 female users. One additional water closet and lavatory shall be provided for each additional 100 female users up to a total of 500 users. Where user load exceeds 500 female users, two additional water closets and one lavatory shall be provide for each additional 250 female users. Where the maximum bather load includes less than 50 female users, one water closet and one lavatory will be sufficient.
 6. Hot and cold potable water shall be provided to all lavatories. The water heater shall be inaccessible to users. The system shall be designed such that water temperature at the shower heads and lavatories cannot exceed 110° Fahrenheit.
 7. Soap dispensers with either liquid or powdered soap shall be provided at each lavatory. The dispenser shall be of all metal or plastic type, with no glass permitted in these units. Individual towels or approved hand-drying devices shall be provided.
 8. If mirrors are provided, they shall be of shatterproof materials.
 9. Toilet paper holders with toilet paper shall be provided at each water closet.
 10. Sanitary accommodations shall be kept clean and in good repair.
- D. Wastewater Disposal – Each facility shall be provided with an adequate wastewater treatment system approved by the Health Director in accordance with North Carolina General Statutes Chapter 130A, Article 11 or by the North Carolina Department of Environmental Quality.
 - E. Solid Waste Disposal – Solid waste shall be stored in water-tight and vermin excluding receptacles approved by the Health Director. The owner or operator shall dispose or cause the disposal of solid waste placed in solid waste receptacles within a reasonable time period. It shall also be the operator's responsibility to ensure that any materials which afford harborage for insects or rodents are not allowed to remain on the premises for more than thirty (30) days.
 - F. Vegetation – The premises shall be kept clean and free from weeds and uncontrolled vegetation.
 - G. Animals - All animals in facility must be restrained, controlled, or supervised so as not to create a nuisance. Any lots, pens, cages, and areas provided for animals and pets must be maintained in a clean sanitary condition at all times.

SECTION VI – INSPECTIONS AND RECORDS REQUIRED

- A. The facility owner or authorized agent shall submit all recreational water sample results to the Health Director within 10 days after each sampling event; except, the Health Director shall be notified immediately of water samples containing ≥ 104 enterococci/100ml of H₂O. Submitting records to any person or agency other than the Health Department shall not constitute compliance with the reporting requirements of these Rules.
- B. The Health Department will review all water samples upon receipt.
- C. The Health Department shall inspect the facility quarterly and complete an inspection report. A copy of the report will be provided to the owner or operator and any deficiencies will be discussed. Corrective actions for deficiencies, including time parameters, will be provided by the Health Department.
- D. The Health Director shall make such inspections, surveys, and investigations, collect samples of water and substances found on the premises, and make or cause to be made such laboratory analyses as may be necessary to determine that every RWF complies with the standards and requirements set forth in these rules per § NC GS 130A-17. The Health Director is authorized and empowered to enter upon and make inspections of the premises of any RWF while it is in operation or in use and at any other reasonable time. The owner or operator must assist in any reasonable way with such inspections.

SECTION VII - SEVERABILITY

If any provision or clause of these Rules shall be declared invalid, void or unconstitutional, such declaration shall not invalidate any other provision or clause of said Rules.

SECTION VIII - NO IMPLIED WARRANTY OR GUARANTEE

These Rules, or adherence to these Rules, shall not be taken as a warranty or guarantee of producing a safe private recreational water facility.

SECTION IX - EFFECTIVE DATE

These Rules adopted, this 6th day of November 2018, and amended to be effective January 1, 2019.

By: Rebecca B. Daley

Chair
Davidson County Board of Health

Attest: Lillian Kuntz

Secretary
Davidson County Board of Health