

3701-31-02

**Responsibilities of the director of health.**

- (A) Forms. The director shall approve forms to be used by the department and licensor for plan approval, construction verification inspection, compliance inspections and the equipment inventory of public swimming pools.
- (B) State Program Fees. The director shall ensure that the following fees are collected and used for administration and enforcement of this chapter:
- (1) Individual license. An annual license fee established under this rule shall include an additional amount of seventy-two dollars for each license issued on or after April 1, 2011 and eighty dollars for each license issued on or after April 1, 2012.
  - (2) Additional license(s). If multiple public swimming pools are located at the same address, each additional license shall be assessed an amount of forty-seven dollars for each license issued on or after April 1, 2011 and fifty-five dollars for each license issued on or after April 1, 2012.
- (C) Plan review. The director of health shall, within thirty days of receiving complete plans for approval, either approve or disapprove the plans or, in the case of incomplete plans, request additional information. If the director requests additional information, the director shall approve or disapprove the plans within thirty days after receiving the additional requested information.
- (1) Design variance. The director may grant a design variance request submitted under paragraph (G)(1) of rule 3701-31-05 of the Administrative Code if the requested variance is not contrary to Chapter 3749. of the Revised Code, there is good cause for the variance and the variance will not result in any adverse effect on the public health or safety.
  - (2) Shorter turnover rates. In accordance with paragraph (F)(1)(e) of rule 3701-31-05.1 of the Administrative Code the director may require a shorter turnover rate during plan review.
  - (3) Plan approval. The director shall issue a letter to the owner and a copy shall be issued to the licensor that the plans have been approved.
    - (a) Plan approval period. Except as otherwise provided in this rule, a plan approval issued by the director shall be valid for two years after the date on which the director issues the approval.
    - (b) Plan approval extension. The director may grant one extension for a period not to exceed two years from the date the approved plans expire, if the director finds that the applicant has made a good-faith effort to complete the construction, installation, renovation, or substantial alteration but has failed to complete it for reasons beyond the applicant's

control. A request for an extension shall be filed with the director in writing before the expiration of the two-year period. If the construction, installation, or substantial alteration has not been completed within the two-year period or within the limit of any extension granted under this paragraph, the plans shall be resubmitted in accordance with paragraphs (D) and (F) of rule 3701-31-05 of the Administrative Code.

(c) Revision to approved plans. A person who has received a plan approval under paragraph (G)(2) of rule 3701-31-05 of the Administrative Code who wishes to alter any aspect of the approved plans, other than as provided in paragraph (C)(3)(d) of this rule or as otherwise provided in this paragraph, shall file a written request, including drawings when necessary, for amendment of the approved plans. The director shall grant the request unless the amendments will result in noncompliance with a requirement of Chapter 3749. of the Revised Code or this chapter, subject to any variances that the director may grant.

(d) Substantial revisions to the design. A person who has received a plan approval under paragraph (G)(2) of rule 3701-31-05 of the Administrative Code who wishes to make substantial changes to the design from the originally approved plans shall file new plans in accordance with paragraphs (D) and (F) of rule 3701-31-05 of the Administrative Code.

As used in this paragraph, "substantial revision from the originally approved plans" means a redesign of the circulation system components and/or equipment, a change from a skimmer overflow system to a gutter overflow system or from a gutter overflow system to a skimmer overflow system, an increase of more than five per cent in pool volume, or a change in layout, depths, or other dimensional features that significantly affects safety.

(e) Plan approval transfer. A plan approval issued under this rule may be transferred. The person to whom the plan approval is transferred shall notify the director no more than ten days after the transfer occurs and otherwise shall comply with the requirements of this rule.

(4) Plan disapproval. The director may disapprove plans at any time for either of the following reasons: The applicant for plan approval fails to comply with any requirement for Chapter 3749. of the Revised Code or this chapter; or the proposed construction, installation, renovation, or other substantial alteration would not comply with any requirement of Chapter 3749. of the Revised Code or this chapter.

(a) Hearing request. Any person aggrieved by the director's disapproval of plans under this rule may, within thirty days following receipt of the director's notice of disapproval, request a hearing on the matter. The

hearing shall be held in accordance with Chapter 119. of the Revised Code and may be appealed in the manner provided in that chapter.

- (D) Plan verification construction inspections. The director or a licensor authorized by the director shall verify, in accordance with paragraph (H) of rule 3701-31-05 of the Administrative Code, that the construction or alterations are consistent with the approved plans.
- (E) Limited variance - director review. Upon receipt of a variance request from a licensor in accordance with paragraph (H) of rule 3701-31-03 of the Administrative Code, the director may approve a limited variance.
- (F) Surveys of health districts; list of approved districts. The director of health shall annually survey each health district that licenses public swimming pools to determine whether or not the health district is in substantial compliance with this chapter and the rules adopted thereunder. If the director determines that a health district is in substantial compliance, the health district shall be placed on an approved health district licensing list. The director shall, as determined necessary, conduct additional surveys of health districts and shall remove from the approved health district licensing list any health district not in substantial compliance with this chapter and the rules adopted thereunder.
  - (1) Noncompliance. If the director determines that a health district is not eligible to be placed on the approved health district licensing list, the director shall certify the same to the board of health of the health district and shall perform the duties of the health district in that area until the health district is eligible for placement on the approved list. All fees payable to the health district during the time that the director performs the duties of the health district and all other such fees that have not been expended or otherwise encumbered shall be deposited by the director in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code, to be used by the director in his capacity as a licensor. The director shall keep a record of the fees so deposited and, when the health district is placed on the approved list, shall transfer any remaining balance of the fees to the health district swimming pool fund created under division (E) of section 3749.04 of the Revised Code.
  - (2) Survey reports shall be sent to the board of health within sixty days of the survey being completed.
- (G) Other director duties. The director shall maintain a listing of the following approvals:
  - (1) Logos. The director shall review all logos prior to approval and installation or application on the bottom of a public swimming pool.

- (2) Interior surface colors. A list of approved colors for the interior surface of public swimming pools in accordance with paragraph (C)(1)(b) of rule 3701-31-05.1 of the Administrative Code.
- (3) Automatic chemical controllers. A list of acceptable automatic chemical controllers in accordance with paragraph (D)(7)(e) of rule 3701-31-04 of the Administrative Code.
- (4) Life guard, first aid and CPR training. A list of approved training organizations in accordance with paragraphs (E)(4)(e)(viii) - (x) of rule 3701-31-04 of the Administrative Code.

(A) Pre-licensure requirements. Prior to issuing a license to operate a newly constructed or substantially altered public swimming pool, the licensor shall determine that plans have been approved in accordance with paragraph (C)(3) of rule 3701-31-02 of the Administrative Code and that all plan verification inspections have been completed in accordance with paragraph (H) of rule 3701-31-05 of the Administrative code.

(1) Initial license inspections. In accordance with paragraph (F) of this rule, the licensor shall inspect each public swimming pool in his jurisdiction to determine whether or not the public swimming pool is in compliance with Chapter 3749. of the Revised Code and this chapter prior to the issuance of an initial license. The licensor shall make the initial inspection within five days from the date of receipt of notification that the public swimming pool is ready for operation. For the purposes of this chapter, the licensor shall maintain a record of each inspection for a period of at least five years.

As used in this paragraph: "Initial license" means a license issued for operation or maintenance of a public swimming pool or of a public swimming pool that is being opened for the first time or that is being reopened after the license for its operation or maintenance has been expired for more than one year or has been revoked.

(B) Licensing. Each license issued shall be effective from the date of issuance until the last day of May of the following year.

(1) License application. The licensor shall process complete applications to operate a public swimming pool within thirty days of receipt. The licensor shall either issue a license or request additional information from the applicant.

(2) License renewal. Applications for license renewal shall be in April. Applications received after April thirtieth of each year shall be assessed a penalty as authorized by section 3709.09 of the Revised Code. Applications post marked on or before April thirtieth shall be considered timely.

(3) License transfer. The licensor may allow the transfer of a license to operate a public swimming pool provided the licensor has received satisfactory evidence that the applicant has or will have the legal right to operate or maintain the public swimming pool. Licenses subject to current enforcement action shall not be transferred.

(4) Denial, suspension, revocation. The licensor of the health district in which a public swimming pool is located may, in accordance with Chapter 119. of the Revised Code, refuse to grant a license or may suspend or revoke any

license issued to any person for failure to comply with the requirements of Chapter 3749. of the Revised Code or this chapter.

- (C) Cost methodology. Each licensor shall utilize the cost methodology specified in rule 3701-36-14 of the Administrative Code to calculate fees for providing services specified in section 3749.04 of the Revised Code. The calculated fees shall not exceed the cost of licensing and inspecting public swimming pools.
- (1) Program account. Except for the amounts required to be included as part of an annual license fee under paragraphs (B)(1) and (B)(2) of rule 3701-31-02 of the Administrative Code and except as provided in division (B) of section 3749.07 of the Revised Code, all license fees collected by a licensor shall be deposited into the public swimming pool fund created by division (E) of section 3749.04 of the Revised Code in each health district.
- (D) License fee categories. Except as provided in paragraphs (D)(4) - (D)(6) of this rule, the license fee established by a licensor pursuant to section 3709.09 of the Revised Code for a public swimming pool shall be specified in accordance with the following categories:
- (1) Individual public swimming pools;
- (2) Individual public spas; and
- (3) Individual special use pools.
- (4) Individual and Additional licenses. Each individual public swimming pool shall be issued an individual license based on the categories listed above. Facilities where multiple public swimming pools are located at the same address, the licensor may establish a reduced fee for each additional license.
- (5) Government/tax supported schools. For public swimming pools which are operated by the federal government, the state government, or a county, city, township, village, or tax-supported primary or secondary public school, the board of health of a city or general health district may adopt fees that are less than the fees established under paragraphs (D)(1) - (D)(3) of this rule.
- (6) License transfer fee. In accordance with rule 3701-36-14 of the Administrative Code the licensor may adopt a license transfer fee.
- (E) State fee transmittal schedule. The licensor shall collect and transmit the amounts required in paragraphs (B)(1) and (B)(2) of rule 3701-31-02 of the Administrative Code to the treasurer of the state to be deposited in the general operations fund created in section 3701.83 of the Revised Code within forty-five days after the end of the quarter in which it is collected.

(F) Compliance inspections. The licensor shall annually inspect every public swimming pool to determine compliance with Chapter 3749. of the Revised Code and this chapter. A licensor may inspect a public swimming pool anytime it is open to the public. To the extent practical inspections shall be conducted during normal business hours.

- (1) An equipment inventory shall be conducted once each calendar year on a form prescribed by the director.
- (2) The licensor shall verify that any equipment replacement is consistent with plans submitted and approved in accordance with paragraph (D)(4) of rule 3701-31-05 of the Administrative Code.
- (3) The licensor is responsible for verifying that the licensee maintains complete records on file, as specified in paragraph (B)(4) of rule 3701-31-04 of the Administrative Code.
- (4) Record retention. The licensor shall maintain all current public swimming pool plans as long as the pool is in operation and for one year after the license expires. The licensor shall maintain a record of each inspection and equipment inventory for a period of at least five years.
- (5) Prosecution or injunctive relief. The prosecuting attorney of the county, the city director of law, or the attorney general, upon complaint of the licensor, shall prosecute to termination or bring an action for injunctive relief, or both, against any person violating sections 3749.01 to 3749.09 of the Revised Code or any rule adopted thereunder.

(G) Turnover rates. The licensor may allow a longer turnover rate at an existing public swimming pool under the following conditions:

- (1) If the licensee documents that the public swimming pool consistently meets the water quality parameters in paragraph (C) of rule 3701-31-04 of the Administrative Code.
- (2) If the licensor finds that the public swimming pool is consistently in violation of paragraph (F)(1) of rule 3701-31-05.1 of the Administrative Code and the water quality parameters in paragraph (C) of rule 3701-31-04 of the Administrative Code, or if all of the components of the circulation system are replaced, the licensee shall bring the pool into compliance with the turnover rate requirements specified in paragraph (F)(1) of rule 3701-31-05.1 of the Administrative Code.

(H) Limited variance-licensor review. Except as provided in paragraph (C)(1) of rule 3701-31-02 of the Administrative Code, the licensor, with the approval of the director, may grant a variance from the requirements of rules 3701-31-04 of the Administrative Code that will not be contrary to the public interest, where a licensee shows to the satisfaction of the licensor that there is good cause for the

issuance of a variance and that the variance will not result in any adverse effect on the public health and safety. The terms, conditions, and expiration date of the limited variance shall be set forth in any variance issued by the licensor. Failure to comply with such terms and conditions shall constitute a violation of this rule and may result in the revocation of the variance and the license. Variances issued by the licensor are not transferable. No variance shall be granted that will either defeat the spirit and general intent of Chapter 3701-31 of the Administrative Code or that will be contrary to Chapter 3749. of the Revised Code.