

3701-31-03 **Responsibilities of the licensor.**

(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is being reopened after the license for its operation or maintenance has been expired for more than one year or has been revoked.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) to (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) to (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 rule 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.

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Certification

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