

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 4902 of the Department of Health Functions Clarification Act of 2001 (“Act”) (effective October 3, 2001, D.C. Law 14-28; 48 DCR 7064), and Mayor’s Order 2001-111 dated August 6, 2001, hereby gives notice of final action to adopt new rules for swimming pools and spas in the District of Columbia. This rulemaking establishes a new Chapter 64 of Title 22 of the DCMIR and will replace the District of Columbia's current regulations governing swimming pools and bathing places found at 22 DCMR § 111 in their entirety.

Notices of Proposed Rulemaking were published in the *D.C. Register* on September 7, 2001 (48 DCR 8429), February 22, 2002 (49 DCR 1660) and November 8, 2002 (49 DCR 10086). Final action to adopt these rules was taken on January 13, 2003. No changes other than those to correct minor typographical errors have been made to the text of the November 8, 2002 proposed rules. The final rules will be effective upon publication of this notice of final rulemaking in the *D.C. Register*.

Title 22 of the DCMR is amended by adding a new Chapter 64 to read as follows:

**CHAPTER 64- SWIMMING POOLS AND SPAS**

<b>Secs.</b>	
<b>6400</b>	<b>General Provisions</b>
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<b>6409</b>	<b>Water Testing, Records and Reports</b>
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<b>6499</b>	<b>Definitions</b>

**6400 GENERAL PROVISIONS**

- 6400.1 The purpose of this chapter is to protect and promote the health and safety of individuals using swimming pools and spas in the District of Columbia. This chapter applies to the construction and operation of such facilities.
- 6400.2 No person shall construct, install, enlarge or alter a swimming pool or appurtenances thereto as defined in the 1999 District of Columbia Construction Codes (12 DCMR), or any subsequent amendments and

revisions thereto, until construction documents have been submitted and approved by the District of Columbia Department of Consumer and Regulatory Affairs and all licenses, permits, and certificates required by the District of Columbia construction codes have been obtained.

6400.3 No person shall operate a public swimming pool or spa except in accordance with this chapter.

6400.4 Sections 6400.5 through 6411 of these regulations shall not apply to the following:

- (a) A swimming pool or spa that is less than twenty-four inches (24") or six hundred and ten millimeters (610 mm) deep or has a surface area less than two hundred fifty (250) square feet ( $23.25m^2$ ), except when permanently equipped with a water-recirculation system or constructed with structural materials;
- (b) A swimming pool or spa which is completely emptied of water, disinfected, and refilled with water between each use and that is intended for use or used by a single individual during each use;
- (c) A spa which is operated for medical treatment or physical therapy under the direction and control of licensed medical personnel; or
- (d) A private swimming pool or spa.

6400.5 No swimming pool or spa or appurtenances thereto may be open for use by bathers until the following licenses, permits, or certificates have been obtained, or licensed or certified employees or contractors retained:

- (a) A valid swimming pool or spa operating license issued by the Mayor and conspicuously displayed on the premises at all times.
- (b) A swimming pool or spa operator's permit issued pursuant to section 6401 of this chapter;
- (c) A certified lifeguard to the extent required by section 6402 of this chapter; and
- (d) Pesticide applicator and/or pesticide operator's licenses, permits or certificates required by 20 DCMR chapters 22-25.

6400.6 When there is a change in the owner or lessee of the swimming pool or spa, it is the responsibility of the new owner or lessee to secure the applicable licenses, permits, or certificates in his or her name.

- 6400.7 No person having a disease in a stage which is communicable or likely to become so, shall be employed at a swimming pool or spa.
- 6400.8 The owner, lessee, or operator of a swimming pool or spa may employ the services of a swimming pool or spa management company to fulfill the requirements of this chapter.
- 6400.9 It is the responsibility of the swimming pool or spa owner or lessee, operator, and swimming pool or spa management company, to ensure that the applicable requirements of this chapter are met.
- 6400.10 Unless otherwise indicated, the provisions of this chapter shall apply when the swimming pool or spa is open for use by bathers.
- 6400.11 All times, a swimming pool that is not open for use by bathers shall be secured by a locked gate, fence or door so as not to cause a nuisance or hazard.

#### **6401 SWIMMING POOL AND SPA OPERATORS**

- 6401.1 A swimming pool or spa operator shall be on duty at the facility or able to reach the facility within thirty (30) minutes.
- 6401.2 No person shall serve as a swimming pool or spa operator without a valid swimming pool or spa operator's permit, which is renewed every three (3) years.
- 6401.3 To qualify for a swimming pool or spa operator's permit an applicant shall:
- (a) Submit a written application;
  - (b) Pay the required fee;
  - (c) Provide proof of a swimming pool or spa operator's certificate from an operator training course approved by the Department; and
  - (d) Pass a practical applications examination administered by the Department.
- 6401.4 The permit of the swimming pool or spa operator on duty shall be available on the premises and readily accessible to the Department.

#### **6402 LIFEGUARD AND CHILD SAFETY MEASURES REQUIREMENT**

- 6402.1 There shall be a minimum of one (1) lifeguard on duty and observing the swimming pool for every fifty (50) bathers permitted in the water. Pool

management shall increase the number of lifeguards depending on the bathing circumstances.

6402.2 Subject to the limitations of Sections 6402.3-6402.6 below, a lifeguard shall not be required for a swimming pool that is:

- (a) Open for use only to persons who hold membership or other paid association in the facility where the pool is located;
- (b) Open for use only to persons who are permanent or temporary residents or guests of residents at the facility where the pool is located;
- (c) Open for use only to persons who are lodging for a fee at the facility where the pool is located; or
- (d) A spa.

6402.3 The exemption provided in Section 6402.2 above shall not apply if the swimming pool:

- (a) Has a diving board,
- (b) Has a depth of at least six feet (6 ft) (1,830 mm), or
- (c) Has an expected bather population consisting of 50% or more children under the age of fifteen (15).

6402.4 A facility that has a swimming pool that does not have a lifeguard on duty shall follow an approved Swimming Pool Child Safety Plan.

6402.5 A facility that has a spa shall follow an approved Spa Child Safety Plan.

6402.6 Two (2) copies of the facility's Spa Child Safety Plan or Swimming Pool Child Safety Plan shall be provided for review at the time the facility is inspected by the Department prior to opening the pool for its swimming season.

6402.7 The Department may require a lifeguard to be on duty if none exists, require additional lifeguards to be on the deck, or restrict swimming to one (1) portion of any swimming pool because of the following:

- (a) The inadequate guarding of the swimming pool due to the number of bathers using the swimming pool;
- (b) The shape, dimension, and layout of the swimming pool and filter room location;

- (c) The existence of obstruction to vision; or
- (d) The capability of the bathers using the swimming pool.

- 6402.8 Swimming pools with over eighteen hundred square feet (1800 sq. ft.) of water surface area shall have at least one (1) elevated lifeguard chair for each three thousand square feet (3000 sq. ft.) of swimming pool surface or traction thereof. A deck-level lifeguard chair may be used in a designated area on the deck adjacent to shallow water instead of an elevated lifeguard chair.
- 6402.9 Where a swimming pool width is forty-five feet (45') or more and more than one (1) lifeguard chair is provided, lifeguard chairs shall be located on each side of the swimming pool.
- 6402.10 Lifeguards shall be attired as to be readily identifiable as members of the lifeguard staff.
- 6402.11 The lifeguard shall be on the deck and shall observe the pool whenever bathers are in the water and shall not leave the post for any reason without ensuring that all bathers are out of the water, and that they will not return to the water during the lifeguard' s absence.
- 6402.12 A person may fulfill the function of both lifeguard and swimming pool operator when such duplication can be accomplished without adversely affecting the safety and operations standards of the facility. Any lifeguard fulfilling the function of a swimming pool operator shall meet all requirements for swimming pool operators in section 6401.
- 6402.13 Evidence of the qualifications of each lifeguard on duty shall be available on the premises and readily accessible to the Department.

### **6403 POSTING AND ENFORCEMENT OF SIGNS AND RULES FOR BATHER SAFETY**

- 6403.1 Rules for admission to the swimming pool shall be printed legibly with letters three inches (3") or larger on a backing of durable construction, posted conspicuously in an appropriate location for all bathers to see before entering the swimming pool and enforced. The rules shall, at a minimum:
- (a) Restrict the introduction of dirt, excreta, and other extraneous matter into the water by bathers;
  - (b) Restrict the importation of dangerous objects and materials into the swimming pool area;
  - (c) Prohibit unsafe acts, both in and out of the water;
  - (d) Prohibit the use of topical agents including oils, body lotions, and minerals prior to entering, or while in the water;
  - (e) Prohibit the consumption of food or beverages in areas other than the specially designated eating areas that are separated from the swimming pool;

- (f) Require that small children and disabled or infirmed persons in the water are water-safe, are in the proper swimming pool area or are properly supervised by competent water-safe persons in addition to the lifeguards. A bather shall be considered water-safe if he or she is able to swim and capable of exercising proper judgment in taking action for self-preservation under emergency conditions;
- (g) Require that incontinent persons wear protective clothing and that small children wearing diapers must also wear snugly fitting rubber pants; and
- (h) Require each bather to shower prior to entering the swimming pool.

6403.2 In addition to 6403.1 above, when no lifeguard is on duty, a sign shall be posted warning bathers of the following:

- (a) NO LIFEGUARD IS ON DUTY. SWIM AT YOUR OWN RISK.
- (b) NO CHILDREN UNDER THE AGE OF FIFTEEN (15) SHALL USE THE SWIMMING POOL WITHOUT ADULT SUPERVISION.

6403.3 Rules for admission to the spa shall be printed legibly with letters two inches (2") or larger, posted adjacent to the entrance to each spa except where notice is provided to the bathers pursuant to section 6403.4, and enforced. The rules shall, at a minimum:

- (a) Prohibit use while under the influence of alcohol, drugs, medicines, or anything else that may impair the senses or cause drowsiness;
- (b) Prohibit the use of electrical appliances or devices within five feet (5') of the spa;
- (c) Prohibit unsupervised use by children under the age of fifteen (15);
- (d) Prohibit the use of topical agents including, oils, body lotions, and minerals prior to entering, or while in the water;
- (e) Prohibit the consumption of food or beverages in areas other than the specially designated eating areas that are separated from the spa;
- (f) Warn that elderly persons and those suffering from heart disease, diabetes, or high or low blood pressure should not use the spa;
- (g) Warn that bathers should observe a reasonable time limit (e.g., ten (10) minutes), then shower, cool down, and if they wish, return for another brief stay;
- (h) Warn that long exposure may result in nausea, dizziness or fainting and

that a shorter time limit use during pregnancy is indicated;

- (i) Warn bathers to always exit and enter slowly and cautiously; and
- (j) Require each bather to shower prior to entering the spa.

6403.4 In lieu of the signs required in section 6403.3, spa management may provide bathers with written notification of the rules for admission and require that bathers verify, in writing, that they have read and understand the rules.

6403.5 A clock or other time-keeping device shall be provided which is visible to bathers using the spa.

6403.6 Persons shall be excluded from the swimming pool or spa who show apparent signs of infection or other evidence of high contamination risk, such as open cuts, wounds, rashes, or blisters, except when certified by a physician not to have a disease in a communicable stage;

#### **6404 BATHER PREPARATION FACILITIES**

6404.1 Dedicated bather preparation facilities shall be provided at swimming pools or spas unless these facilities are provided for other purposes in the building housing the swimming pool or spa and are in close proximity to the swimming pool or spa.

6404.2 Bather preparation facilities should be based upon the anticipated maximum attendance of bathers and their gender according to the following recommended guidelines:

- (a) A minimum of one (1) toilet, one (1) lavatory, and one (1) urinal for the first one hundred (100) male bathers. A minimum of one (1) additional toilet, lavatory, and urinal for each additional two hundred (200) male bathers or major fraction thereof;
- (b) A minimum of two (2) toilets and two (2) lavatories for the first one hundred (100) female bathers. A minimum of one (1) additional toilet and one (1) lavatory for each additional one hundred (100) female bathers or major fraction thereof; and
- (c) A minimum of two (2) shower heads for each sex. A minimum of one (1) additional shower head for each sex for each additional fifty (50) male or female bathers.

6404.3 A swimming pool or spa shall have the following minimum bather preparation facilities:

- (a) One (1) toilet, one (1) lavatory, and one (1) shower for female

bathers; and

(b) One (1) toilet, one (1) lavatory, and one (1) shower for male bathers.

6404.4 Tempered water only shall be provided at all showerheads. The water heater and thermostatically-controlled mixing valves shall be inaccessible to non-staff persons and shall be capable of providing two (2) gallons per minute at a minimum temperature of ninety degrees Fahrenheit (90° F) thirty-two degrees Celsius (32° C), and a maximum temperature of one hundred forty degrees Fahrenheit (140° F) sixty degrees Celsius (60° C) for dual control fixtures and one hundred degrees Fahrenheit (100° F), thirty-eight degrees Celsius (8° C), for single controlled fixtures for each showerhead.

6404.5 Water used for cleaning or personal hygiene shall be provided only from the District of Columbia public water system.

6404.6 Soap dispensers containing either liquid or powdered soap shall be provided at each lavatory and shower. The dispenser unit shall be of metal or plastic with no glass.

6404.7 An unbreakable mirror shall be provided over each lavatory. A supply of toilet tissue shall be available at each toilet.

6404.8 Fixtures shall be designed so that they may be readily cleaned and so that frequent cleaning and disinfecting shall not cause damage.

6404.9 Sanitary napkins and/or tampon dispensers containing sanitary napkins and/or tampons shall be installed in toilet or shower areas designated for female bathers. Dedicated disposal containers having tight-fitting lids shall be provided for the disposal of sanitary napkins and/or tampons.

6404.10 Bathing suits and towels furnished to bathers shall be thoroughly cleaned and dried each time they are used in a manner that precludes the transmission of disease, and shall be stored in a clean and sanitary manner.

## **6405 FOOD AND BEVERAGES**

6405.1 Eating and drinking shall not be permitted within the swimming pool and deck or spa enclosure. If provided, food and beverages may be allowed in a separate eating area.

6405.2 Food and beverages shall only be served in non-breakable containers. Trash containers shall be provided wherever food or beverages are available.

6405.3 Garbage and refuse collection shall be conducted in a sanitary manner and as often as necessary to prevent a nuisance, vector, or other health problem.



6405.4 If food is provided, operations shall comply with all applicable District of Columbia food laws and regulations.

6405.5 Drinking water facilities shall be provided at the facility housing a swimming pool or spa. Water used for drinking or food preparation shall be provided only from the District of Columbia public water system or from bottled drinking water obtained from approved sources in accordance with 21 CFR 129 – Processing and Bottling of Bottled Drinking Water.

## **6406 EQUIPMENT AND FACILITY SAFETY STANDARDS**

6406.1 All swimming pool and spa operations shall meet the following minimum safety standards:

- (a) Persons shall not be exposed to contact with high temperature surfaces, electric shock hazards, slippery floors and decks, sharp or protruding projections, or surfaces or other conditions that might cause injury;
- (b) Non-staff persons shall not have access to machinery, electric panels, or pool or spa chemicals;
- (c) Artificial lights shall function properly in those areas where such light is required by law or for safety reasons;
- (d) Gas chlorine equipment and containers shall be located out of direct sunlight, chained or fastened in place to prevent tipping, and equipped with a shut-off wrench when in use. The installed power exhaust system of such equipment shall operate properly and a bottle of ammonia shall be available to test for leaks;
- (e) Filter and pump rooms shall be kept clean and reasonably dry at all times. Solution and dry chemical spills, waste material, excess water, and debris shall be promptly removed;
- (f) Supplies and chemicals shall be labeled and stored in a manner appropriate for their proper protection against deterioration and accidents;
- (g) Controls, valves, and gauges shall be accessible and shall not be blocked by extraneous material. Valves and gauges shall function properly and be labeled in accordance with a posted backwash procedures chart;
- (h) Skimmers and returns shall be adjustable and functioning;
- (i) Decks, coping, and fencing shall be in good condition;

- (j) Guard chairs, rails, ladders, steps, handicap and diving equipment shall be secure;
- (k) For any swimming pool that has a depth of six feet (6 ft.) or greater, lifelines shall be in use and secured. For swimming pools of any depth, depth markers shall be legible;
- (l) Face plates and main drain grates shall be intact, in place, and secured so that they cannot be removed without the use of tools;
- (m) Hose bibs shall be in functioning order and vacuum breakers shall be on all hose bibs;
- (n) Weirs shall be present and functioning;
- (o) Scum gutters shall be free flowing;
- (p) The room housing the swimming pool or spa shall contain adequate ceiling intake vents and shall be exhausted at floor level; and
- (q) All other facilities and equipment shall be operable and in good condition.

**6407 FIRST AID AND LIFESAVING EQUIPMENT**

6407.1 The following minimum first aid, lifesaving and rescue equipment shall be available on the premises:

- (a) First aid supplies consisting of one (1) roll of adhesive tape, five (5) four inch (4") gauze pads, two (2) eye dressing packets, one (1) box of assorted size bandages, one (1) pair of scissors, one (1) pair of tweezers, one (1) face mask for cardiopulmonary resuscitation with one-way valve, and one (1) pair of disposable latex plastic gloves;
- (b) Two (2) blankets for emergency use only;
- (c) A backboard with straps not made of ropes or wires;
- (d) A light, strong pole not less than twelve feet (12') long including a body hook;
- (e) Rescue tubes;
- (f) A blood borne pathogen control kit;

- (g) A telephone, readily accessible to bathers on which is conspicuously printed the numbers of the nearest available police, fire, ambulance service and/or rescue unit, and 911. The telephone must allow users to reach a 911 emergency service without the use of a coin and without connection to an internal switchboard; and
- (h) A lockable emergency gate with key present.

6407.2 Sections 6407.1(c), (d), and (e) above shall not apply to spa facilities.

## **6408 WATER QUALITY**

- 6408.1 Each swimming pool or spa shall have a circulation system consisting of pumps, piping; return inlets, suction outlets, filters, and other necessary equipment for complete circulation of water through all parts of the pool or spa.
- 6408.2 The circulation system shall be of adequate size to turn over the entire pool or spa water capacity as follows:
  - (a) For public swimming pools, at least once every eight (8) hours;
  - (b) For wading pools, at least once every two (2) hours; and
  - (c) For spas, once every thirty minutes.
- 6408.3 The Director may require a more frequent turnover rate for swimming pools, such as once every six (6) hours, if the Director determines that the swimming pool has an unusually heavy bather load or other conditions to warrant more frequent turnover rates.
- 6408.4 Filters shall not filter water at a rate in excess of fifteen (15) gallons per minute per square foot (123L/min/m<sup>2</sup>) of surface area.
- 6408.5 Overflow facilities shall be provided and water levels in the swimming pool maintained to effectively remove scum, debris, or other floating matter.
- 6408.6 The temperature of the swimming pool or spa water shall not exceed one hundred four degrees Fahrenheit (104° F), forty degrees Celsius (40° C).
- 6408.7 Swimming pool water shall be of sufficient clarity so that the main drain may be clearly seen from the closest lifeguard chair or from the furthest edge of the swimming pool if the swimming pool has no lifeguard chair.
- 6408.8 Floating or sunken debris, algae, and dirt shall not be present. Filter media or filter aids shall not appear in the pool or spa.

- 6408.9 When sand or anthrafil filters are used, equipment shall be provided capable of continuously adding coagulant, with reasonably accurate dosage, ahead of the filters.
- 6408.10 The acidity/alkalinity of the swimming pool or spa waters shall not be below 7.0, nor more than 7.5.
- 6408.11 Disinfectant and chemical feeders, capable of precisely introducing a sufficient quantity of an approved disinfecting agent to maintain the appropriate disinfectant residuals, shall be used at swimming pools and spas.
- 6408.12 All products used in swimming pool or spa waters must be labeled for the particular use to which they are put. Products which are not regulated by either the United States government or the Mayor may not be used in swimming pool or spa waters unless approved by the Mayor.
- 6408.13 No person shall use a pesticide in a manner that is inconsistent with the labeling of that pesticide, or that is in violation of the restriction imposed on the use of the pesticide by the United States Environmental Protection Agency or the Mayor.
- 6408.14 Disinfecting products other than chlorine or bromine may be used after approval by the Mayor when they have been adequately demonstrated to:
- (a) Be clearly labeled with directions for use;
  - (b) Provide a satisfactory residual effect which is easily measured;
  - (c) Work as effectively as chlorine or bromine; and
  - (d) Impart no toxic properties to the water that create a danger to public health or create objectionable physiological and environmental effects.
- 6408.15 The residuals for cyanuric acid, if used, shall be between ten parts per million (10 ppm) and one hundred parts per million (100 ppm) for swimming pools, and between ten parts per million (10 ppm) and one hundred fifty parts per million (150 ppm) for spas.
- 6408.16 A swimming pool or spa that is found to contain improper residuals or be contaminated, and is not properly treated or disinfected, may be closed by the Director pursuant to section 6411.
- 6408.17 Water in a swimming pool shall be considered contaminated when one of

the following conditions exists:

- (a) More than one (1) ten milliliter (10 ml) portion of a sample shows a positive test for coliform organisms when multitube fermentation technique is used; or more than one coliform per fifty milliliters (50ml) when the membrane filter test is used; or
- (b) Two (2) consecutive samples show a positive test for coliform organisms in any ten milliliter (10 ml) portion of a sample when the multitube fermentation technique is used or more than one coliform per fifty milliliters (50 ml) when the membrane filter test is used; or
- (c) Two (2) of any ten (10) consecutive samples show a positive test for coliform organisms in any of the ten milliliter (10 ml) portions of a sample when the multitube fermentation technique is used or more than one (1) coliform per fifty milliliters (50 ml) when the membrane filter test is used.

6408.18 If fecal matter is introduced into the swimming pool or spa, such matter shall be removed and the facility closed for minimum of twenty (20) minutes to allow for proper disinfection.

## **6409 WATER TESTING, RECORDS, AND REPORTS**

6409.1 Each swimming pool or spa shall be supplied with a chemical test kit capable of measuring pH, residual ranges of chlorine, bromine, cyanuric acid, if used, and other disinfectant products that may be used. The method used to determine the free available chlorine residual shall be such that chloramines or other chlorine compounds that may be present in the swimming pool or spa do not affect the determination.

6409.2 Operational logs shall be maintained which record the following information daily, unless otherwise required:

- (a) Name of each swimming pool or spa operator on duty;
- (b) Name of each lifeguard on duty;
- (c) Rate of flow readings;
- (d) Weather;
- (e) Temperature;
- (f) Attendance;

- (g) The time of filter backwash or cleaning;
- (h) Injuries or accidents at the swimming pool or spa;
- (i) Chemicals added to the waters;
- (j) Malfunctioning or broken equipment;
- (k) pH readings, taken at one hour intervals;
- (l) Free chlorine residual readings, taken at one hour intervals;
- (m) Total bromine residual readings, taken at one hour intervals;
- (n) Cyanuric acid, if used, residual readings, taken prior to opening the swimming pool or spa for bathers;
- (o) Residual readings of other products used, taken at one hour intervals or as otherwise directed on the label;

6409.3 The information required by section 6409.2 (a)-(g) shall be recorded a minimum of three (3) times per day, unless otherwise required, and in conformance with the following schedule:

- (a) The first recording of the day shall be made one-half (1/2) hour before the swimming pool or spa opens;
- (b) The second recording shall be completed between 12 p.m. and 2 p.m.; and
- (c) The final recording shall be completed two (2) hours before closing.

6409.4 The Department may require more frequent recordings than those specified in this section if conditions, including high bather load, high temperatures, bright sunlight, or inadequate water quality, exist.

6409.5 The daily operational log must be easily readable, dated and signed, and available on the premises for inspection by the Director for a minimum of three (3) years.

6409.6 An injury occurring at a swimming pool or spa that results in death or that requires resuscitation or admission to a hospital shall be reported to the Director within three (3) days of the incident.

6409.7 Waterborne illness contracted at a swimming pool or spa shall be reported to the Director within twenty-four (24) hours of the swimming pool or spa management's knowledge of the incident.

**6410 WATER SUPPLY AND WASTEWATER DISPOSAL**

- 6410.1 No direct mechanical connection shall be made between the potable water supply and the swimming pool or spa, chlorinating equipment, or the system of piping for the swimming pool or spa unless it is protected against backflow and back-siphonage in a manner approved by the Mayor, or through an air gap meeting the approval of the Mayor.
- 6410.2 Where it is not practicable to provide the minimum air gap, the connection to the fixture, equipment or appliance shall be equipped with a backflow preventer assembly of a type and at a location approved by the Mayor.
- 6410.3 Backwash water or drainage waters of a swimming pool or spa shall be discharged into a sanitary sewer through an approved air gap, or by other means approved by the Mayor.

**6410 ENFORCEMENT AND PENALTIES**

- 6410.1 The Director or his or her designee shall have the right, without prior notice, to enter upon and into the premises of any swimming pool or spa licensed under this chapter, or for which an application for license has been made, to determine compliance with the provisions of this chapter.
- 6410.2 The Director or his or her designee shall inspect the swimming pool and spa annually for compliance and shall provide the applicant or licensee with a written copy of the inspection report.
- 6411.3 No person shall operate a swimming pool or spa until appropriate inspections show compliance with the requirements of this chapter.
- 6411.4 The Director may issue a notice of violation for failure of any person to comply with these regulations.
- 6411.5 The Director may deny, suspend, or revoke any license or permit for failure to comply with the provisions of this chapter.
- 6411.6 When the Director has reason to believe that the operation or maintenance of the swimming pool or spa will constitute an imminent health or safety hazard, the operating license shall be summarily suspended and the swimming pool or spa operations shall cease immediately.
- 6411.7 The Director may summarily suspend a swimming pool or spa operating license as specified in section 6411.6 by providing written notice of the summary suspension to the licensee or person in charge, without prior warning, notice of a hearing, or a hearing.

- 6411.8 The summary suspension notice shall state:
- (a) That the swimming pool or spa operating license is immediately suspended and that all operations shall immediately cease;
  - (b) The regulations that have been violated;
  - (c) The name and address of the Director's representative to whom a written request for reinspection may be made and who may certify that the deficiencies have been corrected; and
  - (d) That the licensee may request a hearing by submitting a timely request in accordance with section 6411.10 which request does not stay the imposition of the summary suspension notice.
- 6411.9 The suspended license may be reinstated upon presentation of evidence that the deficiencies which caused the suspension have been corrected. Such evidence may be in the form of a reinspection by the Department, or by presentation of other acceptable evidence.
- 6411.10 A person whose operating license has been suspended or who has been denied an operating license shall have the right to request a hearing within fifteen (15) calendar days of receiving notice of the action. The Mayor shall hold a hearing within five (5) calendar days of receipt of a timely request, and shall issue a decision within five (5) calendar days after the hearing.
- 6411.11 Any person aggrieved by a final action of the Mayor may obtain a review of the action by appealing to the Board of Appeals and Review.
- 6411.12 The decision of the Board of Appeals and Review on an appeal shall be the final administrative remedy.
- 6411.13 Any person aggrieved by a final administrative remedy may seek judicial review of the decision in the D.C. Court of Appeals, in accordance with the District of Columbia Administrative Procedure Act, (D.C. Code §2-501 *et seq.*) (2001).
- 6411.14 In any instance where a civil fine, penalty, or fee has been established pursuant to the "Civil Infractions Act" (Act) (D.C. Law 6-42, D.C. Code §2-1801.01 *et seq.* (2001)), the civil fine, penalty, or fee may be imposed as an alternative sanction for violations of this chapter and shall be governed by regulations applicable to the Act.

**6499 DEFINITIONS**



When used in this chapter, the following terms and phrases shall have the meanings ascribed.

**Appurtenance** - a subordinate part, adjunct or accessory object to the swimming pool or spa.

**Backflow** - the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from a source other than an approved source.

**Backwash** - the process of thoroughly cleansing the filter media and for elements by reverse flow.

**Bather** - any person using a spa, swimming pool, appurtenances and adjoining deck areas for the purpose of swimming, water sports, recreation, therapy, or related activities.

**Coagulant** - a chemical that clots or congeals and neutralizes suspended particles in water including inorganic salts of aluminum or iron, and water-soluble organic polyelectrolyte polymers.

**Construction documents** - all written, graphic, and pictorial documents drawn to an appropriate scale prepared or assembled for describing the design, location, and physical characteristics of the elements of the project necessary for obtaining a building permit.

**Coping** - the cap on the swimming pool or spa wall that provides a finishing edge around the swimming pool or spa including caps that are formed, cast in place or pre-cast, or pre-fabricated from metal or plastic materials. It may be used as part of the system that secures a vinyl liner to the top of the swimming pool wall.

**DCMR** - District of Columbia Municipal Regulations

**Deck** - those areas immediately adjacent to or attached to a swimming pool or spa that are specifically constructed or installed for sitting, standing, or walking.

**Department** - the District of Columbia Department of Health or the department or agency to whom the responsibility and authority to implement and enforce this title has been delegated by the Mayor.

**Director** - the Director of the District of Columbia Department of Health, or the department or agency to whom the responsibility and authority to implement and enforce this title has been delegated by the Mayor, or the Director's designated agent or representative.

**Disinfectant** - the agent that disinfects by inhabiting, neutralizing, or destroying the growth of harmful microorganisms.

**Filter** - a device that separates solid particles from water by recirculating it through a porous substance including but not limited to a filter media or element.

**Filter aid** - a powder-like substance such as diatomaceous earth or volcanic ash used to coat septum type filters or as an aid to sand filters.

**Filter medium** - a finely graded material including but not limited to sand, diatomaceous earth, polyester fabric, and anthracite that removes filterable particles from water.

**Hose bib** - the fixture to which a water hose can be attached.

**Licensee** - any person in possession of a valid license to operate a swimming pool or spa in the District of Columbia.

**Lifeguard** - a person having the qualifications of, and possessing a current American Red Cross, Young Men's Christian Association (YMCA) or equivalent lifeguarding certificate, current first aid certificate and current cardiopulmonary resuscitation (CPR) certificate (which includes adult, children, and infants).

**Main drain** - grates the protective cover over the main drain located in the lowest level of the deep end of the swimming pool.

**Open** - any time people are, or can be, admitted to the waters of a swimming pool or spa.

**Person** - includes individuals, firms, partnerships, companies, corporations, trusts, associations, organizations, or any other private or governmental entities.

**Pest** - any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganism on or in living persons or other living animals) that commonly is considered to be detrimental to a person or mankind's interests, or which the Mayor may declare to be detrimental.

**Pesticide** - any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

**Private swimming pool or spa** - any swimming pool or spa built in conjunction with a single family residence used or intended to be used solely by the owner or lessee, and the owner's or lessee's immediate family and guests invited to use it without payment of any fee.

**Public swimming pool or spa** - any swimming pool or spa, other than a private residential swimming pool or spa which is intended to be used collectively by numbers of persons and operated by any person, whether as owner, lessee, operator or concessionaire, regardless of whether a fee is charged for such use, including but not

limited to, tourist establishment swimming pools or spas, swimming pools or spas owned or operated by an apartment, condominium, cooperative, or other tenant or ownership group, private club or association of persons, or any association of persons.

**Returns** - any plumbing or inlet on a swimming pool system which leads water to the filtering elements within the re-circulation system.

**Scum gutters** - the drains which surround the pool deck and lead to the return lines.

**Spa** - a hydrotherapy unit designed for recreational or therapeutic use, which is not drained, cleaned or refilled after each use including, but not limited to, units designed for hydro-jet circulation, hot water, cold water, mineral bath, air induction bubbles, or any combination thereof and includes whirlpools and hot tubs.

**Spa Child Safety Plan** - A plan prepared annually by the owner or manager of a facility housing a spa that describes the following:

- (a) The name, address and telephone number of the facility,
- (b) The name, address and telephone number of the owner and manager of the facility,
- (c) The facility's swimming season (the months of the year that the pool is open),
- (d) The expected number of bathers when the spa is open (daily average for the operating months),
- (e) The expected number of the bathers who are over the age of fifteen (15) when the spa is open. (daily average for the operating months),
- (f) The percentage of the expected bathers who are under the age of fifteen (15) when the spa is open. (Daily average for the operating months),
- (g) The specific measures that the facility will undertake (in addition to the posting of signs) to ensure that children under the age of fifteen (15) do not use the spa without adult supervision, and
- (h) The specific measures that the facility will undertake to monitor the spa when the spa is open.

**Spa operator** - any person in possession of a valid District of Columbia spa operator's permit who is in the immediate control of the operation of a public spa.

**Swimming pool** - any artificial structure, basin, chamber, or tank, either above or below ground, which is used or intended to be used for the primary purpose of swimming, diving, wading, or recreational bathing and including all appurtenant equipment,

structures, and facilities located within a common enclosure.

**Swimming Pool Child Safety Plan** - A plan prepared annually by the owner or manager of a facility housing a swimming pool that describes the following:

- (a) The name, address and telephone number of the facility,
- (b) The name, address and telephone number of the owner and manager of the facility,
- (c) The facility's swimming season (the months of the year that the pool is open),
- (d) The expected number of bathers when the pool is open (daily average for the operating months),
- (e) The expected number of the bathers who are over the age of fifteen (15) when the pool is open. (daily average for the operating months),
- (f) The percentage of the expected bathers who are under the age of fifteen (15) when the pool is open. (daily average for the operating months),
- (g) The maximum bather load of the swimming pool,
- (h) The minimum and maximum depths of the swimming pool,
- (i) The specific measures that the facility will undertake (in addition to the posting of signs) to ensure that children under the age of fifteen (15) do not use the swimming pool without adult supervision,
- (j) The specific measures that the facility will undertake to monitor the swimming pool when the pool is open, and
- (k) Any special circumstances or events that would change the bather loads identified above.

**Swimming pool operator** - any person in possession of a valid District of Columbia swimming pool operator's permit who is in immediate control of the operation of a public swimming pool.

**Swimming pool or spa management** - any person, owner, lessor, pool or spa operator or pool or spa management company responsible for the operation and/or maintenance of a public swimming pool or spa.

**Swimming pool or spa management company** - any person, cooperative, association, partnership, firm, or corporation, who is responsible by contract or other agreement with the owner or lessee of a public swimming pool or spa for the operation and maintenance

of the public swimming pool or spa.

**Swimming Season** - the months of the year that a pool is open.

**Turnover** - the time required to re-circulate the entire swimming pool volume of water through the filtration system and back to the swimming pool.

**Vacuum breaker** - a fixture placed between the water supply and the outlet to prevent the back siphonage of wastewater.

**Wading pool** - a body of water designed for use by small children which is not deeper than twenty-four inches (24") and of a size that the quality and quantity of the water confined must be mechanically controlled for the purpose of purification and contained in an impervious structure.

**Water supply** - a source or sources of water, including water treatment, storage, transmission and distribution facilities.