

# **CABINET FOR HEALTH AND FAMILY SERVICES**

## **Department for Public Health**

### **Division of Public Health Protection and Safety**

#### **(New Administrative Regulation)**

#### **902 KAR 10:125. Kentucky public swimming and bathing facility safety requirements.**

RELATES TO: KRS 211.015, 211.205

STATUTORY AUTHORITY: KRS 194A.050, 211.180, 2024 Ky Acts ch. 116

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.180 authorizes the cabinet to adopt administrative regulations relating to public facilities, and their operation and maintenance in a safe and sanitary manner to protect public health and prevent health hazards. This administrative regulation establishes uniform safety standards for public swimming pools and bathing facilities.

#### **Section 1. Definitions.**

- (1) "Bather" means a person using a public swimming and bathing facility.
- (2) "Bather load" means all bathers within the public swimming and bathing facility enclosure.
- (3) "Cabinet" is defined by KRS 211.015(1)(a).
- (4) "Class A" is defined by 2024 Ky Acts ch. 116 Section 1(1)(a).
- (5) "Class B" is defined by 2024 Ky Acts ch. 116 Section 1(1)(b).
- (6) "Play feature" means a structure or feature that is added to a pool for the purpose of entertainment.
- (7) "Public swimming and bathing facility" or "facility" means a natural or artificial body or basin of water that is modified, improved, constructed, or installed for the purpose of swimming or bathing, except for a pool at a private single-family residence intended only for the use of the owner and guests.
- (8) "Public swimming and bathing facility enclosure" means an enclosure that surrounds and secures the public swimming and bathing facility that includes decking and pool.
- (9) "Readily accessible" means direct access without the necessity of removing any panel, door, or similar obstruction.
- (10) "Splash pad" means a public swimming and bathing facility that:
  - (a) Has aquatic play features that spray or drop water for the purpose of wetting people;
  - (b) Is designed so that there is no accumulation or ponding of water on the ground;
  - (c) Includes both recirculating and non-recirculating water systems; and
  - (d) Includes splash pads operated by local governments as defined in KRS 211.205.
- (11) "Third-party compliance specialist" means a person who is a representative of an incorporated organization that provides lifeguard training and pool safety analysis and is not a representative of state and local governments nor is an associate of the establishment seeking use of an alternative lifeguard plan.

#### **Section 2. Lifeguards.**

- (1) Class A and Class B pools that meet the criteria specified in 2024 Ky Acts ch. 116 Section 1(2) shall have lifeguards on duty at a rate of one (1) per 100 bathers.
- (2) All Class A pools over 2,000 square feet shall have a minimum of one (1) lifeguard on duty at all times the pool is open to bathers.

(3) Additional lifeguards shall be provided at a rate of:

(a) One per 2,000 square feet or major fraction more than half thereof according to the following table:

Water Surface Square Footage	Number of Lifeguards Required
2,000-3,000	1 lifeguard required
3,001-5,000	2 lifeguards required
5,001-7,000	3 lifeguards required
7,001-9,000	4 lifeguards required
9,001-11,000	5 lifeguards required
11,001 and above	6 lifeguards required plus one additional lifeguard for each additional 2,000 square feet over 11,000 square feet;
or	

(b) One (1) per 100 bathers according to the following table:

Number of Bathers	Number of Lifeguards Required
1-100	1 lifeguard required
101-200	2 lifeguards required
201-300	3 lifeguards required
301-400	4 lifeguards required
401-500	5 lifeguards required
501-600	6 lifeguards required
601 and above	7 lifeguards required plus one additional lifeguard for each additional 100 bathers.

(4) All Class A and B pools using number of bathers for the lifeguard application rate shall:

- (a) Establish a method for tracking bathers entering the facility;
- (b) Continuously monitor fluctuating bather load and staff lifeguards accordingly; and
- (c) Upon inspection, provide accurate bather load logs to the cabinet.

(5) In accordance with 2024 Ky Acts ch. 116 Section 1(4), a swimming coach or instructor may count as a required lifeguard. The swimming coach or instructor shall comply with the requirements of subsection (10)(a) of this section when acting as a required lifeguard.

(6) All facilities that are not required to provide lifeguards shall post and enforce the following rules at all entrance points: "No Lifeguard on Duty" and "No person may enter the facility area alone or swim alone."

(7) In accordance with 2024 Ky Acts ch. 116 Section 1(2), at all times when a lifeguard is not on duty, features such as induced waves, slides, diving boards, platforms, climbing walls, or other similar features shall not be used. These features shall be either roped off or otherwise blocked for usage, and signage shall clearly indicate that the features may not be used.

(8) Splash pads shall not be required to provide lifeguards.

(9) A facility may submit an alternative lifeguard staffing plan that:

- (a) Has been certified by an independent third-party compliance specialist who witnessed the initial testing to ensure the plan is sufficient to protect patrons;
- (b) Designates the number of lifeguards necessary to ensure each lifeguard is capable of viewing the entire area of the assigned zone of patron surveillance;
- (c) Ensures the lifeguard is able to reach the farthest extent of the assigned zone of patron surveillance within twenty (20) seconds; and
- (d) Includes the following:
  - 1. A description of study methods and calculations used to determine lifeguard zones and placement;
  - 2. Methods and frequency of testing that will be performed to ensure the plan protects patrons;
  - 3. A complete layout of the pool surface diagrammed with lifeguard placement and assigned zone of surveillance; and
  - 4. A minimum baseline of lifeguards required for safe operation;
- (e) The alternative lifeguard staffing plan shall be:
  - 1. On file with the Public Safety Branch within the Department for Public Health;
  - 2. Submitted to the local health department of jurisdiction; and
  - 3. Resubmitted if there is a change in:
    - a. The shape or size of the swimming pool;
    - b. The surrounding areas that would obstruct the lifeguard's view of the bottom of the pool; or
    - c. Ownership of the facility.
- (10) Lifeguards shall comply with the following:
  - (a) Lifeguards, including coaches or instructors serving as lifeguards as described in 2024 Ky Acts ch. 116 Section (1)(4), shall have a current lifesaving certificate. Current training as a lifesaver or water safety instructor shall be an American Red Cross or equivalent training and include an in-water training component. The certificate of competency shall be onsite and available for inspection upon request;
  - (b) Lifeguards shall be dressed in swimming attire; and
  - (c) Lifeguards assigned to the supervision of the facility shall not be subject to duties that would:
    - 1. Distract their attention from proper observation of persons in the facility area; or
    - 2. Prevent immediate assistance to persons in distress in the water.

### Section 3. Safety Equipment.

- (1) One (1) unit consisting of the following lifesaving equipment shall be provided for 2,000 square feet of water surface area and an additional unit for each additional 2,000 square feet or major fraction more than half thereof:
  - (a) A U.S. Coast Guard approved ring buoy no more than twenty (20) inches in diameter with a three-sixteenths (3/16) inch rope attached that measures one and one-half (1 1/2) times the maximum pool width;
  - (b) Rescue tubes may be used when lifeguards are present;
  - (c) A shepherd's hook securely attached to a one (1) piece pole not less than twelve (12) feet in length; and
- (2) One (1) backboard with head immobilizer and at least three (3) straps for back and neck injuries shall be provided per facility.
- (3) All facilities shall be equipped with a minimum of one (1) standard twenty-four (24) unit first aid kit or its equivalent that is kept filled and ready for use. Additional units shall be provided for each additional 2,000 square feet of facility area or major fraction more than half thereof.
- (4) Spas with less than 144 square feet of water surface areas shall be exempt from the requirements of subsection (1) and (2) of this section.

(5) Splash pads shall be exempt from the requirements of subsection (1) through (3) of this section.

(6) Lifesaving equipment shall be mounted in conspicuous places at lifeguard chairs or other readily accessible locations. Its function shall be plainly marked, and this equipment shall be kept in repair and ready condition. Bathers or other persons shall not be permitted to tamper with, use for any purpose other than its intended use, or remove this equipment from its established location.

(7) The hydrojet auxiliary air or water pump for a spa shall be controlled by an on-off switch with a fifteen (15) minute timer located and labeled at least five (5) feet away from the spa.

(8) All facilities shall provide an emergency automatic pump shut off readily accessible by facility staff.

#### Section 4. Emergency Telephones.

(1) All facilities shall have a non-pay landline or Voice over Internet Protocol (VoIP) telephone, continuously connected to a power source and operational at all times, capable of direct dialing 911 without going through a switchboard, and located in a conspicuous, readily accessible location. A cordless telephone shall be prohibited. Instructions for dialing shall be posted if necessary.

(2) All facilities utilizing VoIP telephones shall only use fixed VoIP services. Non-fixed VoIP services shall be prohibited.

(3) The address of the facility and the telephone number of the police department, fire department, emergency medical service, or a hospital shall be posted in a conspicuous place near the telephone.

Section 5. Reporting Requirements. All drownings, near drownings, and injuries requiring hospitalization shall be immediately reported to the local health department and the Department for Public Health on form "DFS-354, Kentucky Public Swimming and Bathing Facilities Drowning and Injury Report".

Section 6. Existing Facilities and Equipment. Existing facilities and equipment being used prior to the effective date of this administrative regulation that do not fully meet the design, construction, and materials requirements of this administrative regulation, may continue to be used if the facilities and equipment:

(1) Are in good repair;

(2) Are capable of being maintained in a sanitary condition; and

(3) Create no health or safety hazard.

#### Section 7. Variances.

(1) A facility submitting an alternative lifeguard staffing plan pursuant to Section 2(7) of this administrative regulation may submit a request for a variance to the safety equipment requirements of this section to the Environmental Management Branch in the Department for Public Health.

(2) The variance requested shall not affect the safe and healthful operation of the facility.

(3) Before granting a variance, the cabinet shall require adequate proof from the applicant that the requested variance will comply with the basic intent of this section and that no safety or health hazard would be created if the variance is granted.

#### Section 8. Incorporated by Reference.

(1) The "DFS-354, Kentucky Public Swimming and Bathing Facilities Drowning and Injury Report", 3/2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Public Health Protection and Safety, Department for Public Health,

275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. and online at <https://chfs.ky.gov/agencies/dph/dphps/emb/Pages/pools.aspx>.

*STEVEN J. STACK, MD, MBA, Commissioner*  
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: July 2, 2024

FILED WITH LRC: July 11, 2024 at 11:30 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on September 23, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by September 16, 2024, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until September 30, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax: 502-564-7091; email [CHFSregs@ky.gov](mailto:CHFSregs@ky.gov).