

## **10.17.01 Public Swimming Pools and Spas**

10.17.01.21 (September 9, 2021)

### **.05 Definitions**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(4-2) “Critical violation” means a violation that results from a product, practice, circumstance, or event that creates a situation that requires immediate correction or cessation of operation to prevent injury, illness, or death based on the number of potential injuries and the nature, severity, and duration of the anticipated injury or illness, or specifically:

(a) Failure to comply with:

(i) Regulation .06-1E of this chapter;

(ii) For a public pool with a lifeguard on duty, Regulation .21 of this chapter, except for

§A(10)(a)[, (b),] and [(d)—(f)] *(c)—(e)* and B(2);

(iii) For a public pool without a lifeguard on duty, Regulation .21 of this chapter, except for

§A(10)[(a) and (d)—(f)] *(c)—(e)* and B(2);

(iv) Regulation .25G of this chapter;

(v) Regulation .28 of this chapter, except for §H(3)(b), (7), and (8) and I;

(vi) Regulation .40B, D, and E of this chapter;

(vii) Regulation .43A and B of this chapter;

(viii) Regulation .45A(7) of this chapter;

(ix) Regulation .48B of this chapter; or

(x) Manufacturer’s instructions or directions when adding chemicals to a public pool or spa;

(b) Meeting both of the following conditions at the same time:

- (i) The flow through a circulation system of a public pool or spa meets the criteria for a major violation as specified in §B(7-1) of this regulation; and
  - (ii) One or more of the water quality parameters meets the criteria for a major violation as specified in §B(7-1) of this regulation;
  - (c) A pH level in a public pool or spa that is at or:
    - (i) Below 6.8; or
    - (ii) Above 8.2;
  - (d) A free chlorine level in a:
    - (i) Pool for swimming or diving or a water recreational attraction that is less than 1 ppm;
    - (ii) Wading or therapy pool that is less than 3 ppm; or
    - (iii) Spa that is less than 4 ppm;
  - (e) A free chlorine level in a public pool or spa that is 11 ppm or greater;
  - (f) A bromine level in a:
    - (i) Pool for swimming or diving or a water recreational attraction that is less than 3 ppm; or
    - (ii) Spa, wading pool, or therapy pool that is less than 4 ppm;
  - (g) A bromine level in a public pool or spa that is 11 ppm or greater;
  - (h) A temperature in a mechanically heated:
    - (i) Pool above 96°F; or
    - (ii) Spa above 104°F;
  - (i) Hand feeding of any chemicals while patrons are in the water of a public pool or spa; or
  - (j) Insufficient illumination such that the bottom of the pool or spa is not clearly visible.
- (7-1) “Major violation” means a violation that if not corrected within 24 hours could lead to injury, illness, or death, or specifically:

- (a) Failure to comply with:
  - (i) Regulation .21B(2) of this chapter;
  - (ii) Regulation .25 of this chapter, except for §§B(2) and G;
  - (iii) Regulation .28H(3)(b) or I of this chapter;
  - (iv) Regulation .29 of this chapter;
  - (v) Regulation .32A of this chapter;
  - (vi) Regulation .40 of this chapter, except for §§B, D, and E;
  - (vii) Regulation .46 of this chapter; or
  - (viii) Regulation .48A of this chapter;
- (b) The flow through a circulation system of a public pool or spa is:
  - (i) At least 10 percent greater than the design capacity of the filter system or associated piping;or
  - (ii) At least 10 percent less than the minimum turnover rate as specified in Regulation .25B;
- (c) A pH level in a public pool or spa that is at or:
  - (i) Below 7; or
  - (ii) Above 8;
- (d) A free chlorine level in a pool for swimming or diving or a water recreational attraction that is less than 1.5 ppm;
- (e) A free chlorine level in a public pool or spa that is between 10 ppm and 11 ppm;
- (f) A bromine level in a public pool or spa that is greater than 8 ppm;
- (g) Except for a therapy pool, a mechanically heated public pool temperature between 89°F and 96°F;
- (h) A cyanuric acid level greater than 100 ppm; or

- (i) A public pool or spa that has a nonfunctioning disinfection system.

## **.21 Barriers.**

A. Except as set forth in §§B, C, and D of this regulation, an owner shall ensure that a recreational pool, semipublic pool, or public spa, including the required deck area, is completely surrounded by a barrier that complies with the following requirements:

- (1) The top of the barrier is at least 72 inches above grade measured on the side of the barrier that faces away from the pool or spa;
- (2) The maximum vertical clearance between grade and the bottom of the barrier is 4 inches measured on the side of the barrier that faces away from the pool or spa;
- (3) Except when [the entrance gate] *a door or gate that allows access to the pool or spa area enclosed by the barrier* is open, an opening in the barrier [and in the] *including in a door or gate* does not allow passage of a sphere 4 inches in diameter;
- (4) Fence pickets have a maximum separation of 4 inches;
- (5) The barrier [does not have openings or footholds that make the barrier easy to climb;] *discourages climbing by preventing access to nearby structures to simplify climbing over it, such as light poles, site furnishings, overhanging tree limbs, or other obvious footholds or handholds;*
- (6) A barrier with horizontal members less than 45 inches apart measured top to top does not have:
  - (a) Vertical openings greater than 1-3/4 inches in width; [and] *or*
  - (b) Horizontal members on the outside of the barrier;
- (7) The barrier does not have decorative cutouts greater than 1-3/4 inches in width;
- (8) A chain link fence has a maximum mesh size of 2-1/4 inches;

(9) A lattice fence has a maximum mesh size of 1-3/4 inches;

[(10) The barrier main access gate:

- (a) Is located toward the shallow end of a pool;
- (b) Has a latch release located at least 54 inches from grade level;
- (c) Is lockable;
- (d) Is hung to open away from the pool or spa;
- (e) Has a minimum width of 4 feet; and
- (f) Complies with Regulation .37 of this chapter; and]

*(10) Except as provided in §A(11) and (12) of this regulation, a door or gate that allows access to the pool or spa area enclosed by the barrier shall:*

*(a) Have the release to open the door or gate located:*

*(i) At least 54 inches from the floor level; or*

*(ii) Between 34 and 48 inches from the floor level when an electronic or combination mechanical release device is used to release the door or gate;*

*(b) Be locked to prevent unauthorized entry to the pool or spa area;*

*(c) Open away from the pool or spa area;*

*(d) Have an opening that provides a minimum width of 32 inches between the gate or door stop and the face of the gate or door with the gate or door open 90 degrees; and*

*(e) Comply with Regulation .37 of this chapter;*

[(11) Doors and windows that open into the pool or spa area enclosed by the barrier have locks or latches to prevent unauthorized entry.]

*(11) A door or gate that allows access to the pool or spa area enclosed by the barrier and is designated as fire egress from a building:*

*(a) May not be included in any facility approved for construction after May 27, 2022; and*

*(b) Is exempt from §A(10)(c) of this regulation;*

*(12) A door or gate used exclusively for maintenance or service access is exempt from §A(10)(a) and (c)—(e) of this regulation; and*

*(13) A window that is a part of the barrier may not be able to be opened more than 4 inches.*

B. An owner shall ensure that a barrier at a semipublic pool or semipublic spa:

(1) Has a minimum height of 60 inches; *and*

(2) Has a gate that is self-closing and self-latching[; and

(3) Complies with the requirements in §A(2)—(11) of this regulation].

C. Except as provided in §D of this regulation, an owner may surround a pool and spa, multiple pools, or multiple spas at one facility with one barrier instead of separate barriers for each pool or spa.

D. An owner shall ensure that a wading pool or infant pool is separated from a pool or spa by a barrier that has:

(1) A minimum height of 36 inches;

(2) A maximum [2-inch] *4 inch* separation between the deck and the bottom of the barrier;

(3) No opening that allows the passage of a sphere 4 inches in diameter; and

(4) An entrance gate with a latch.

*E. An owner of a pool or spa with a barrier that includes a door or gate designated as a fire egress from a building shall ensure that whenever a lifeguard is not on duty, the pool or spa is secured:*

*(1) With a cover that has a visible label indicating that it meets ASTM F1346 – 91; or*

*(2) By following procedures per a variance under Regulation .53 of this chapter.*