Kansas Administrative Regulations

Department of Health and Environment

Article 4.—Maternal and Child Health—General Regulations for Categories of Child Care.

28-4-129. Swimming and wading activities.

Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the requirements of this regulation are met.

(a) Pools, hot tubs, and spas on the premises.

(1) No child shall have unsupervised access to a pool, a hot tub, or a spa.

(2) If a pool, a hot tub, or a spa is on the premises, it shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.

(3) Required staff-child ratios shall be maintained at all times that children are involved in swimming or wading activities.

(4) The number and ages of children using a pool shall be limited to allow supervision by each individual caring for children.

(5) Legible safety rules for the use of each pool shall be posted in a clearly visible location near the pool area.

(6) Each individual responsible for the supervision of any child using a pool shall review the safety rules with each child before the child participates in the activity.

(b) Pools on the premises. Pools containing less than 12 inches of water and not permanently affixed to the premises shall be exempt from this subsection. If a pool is on the premises, the following requirements shall be met:

(1) Each inground pool shall be enclosed by a fence at least five feet high with openings no greater than 3.5 inches. The fence shall be constructed and maintained in good repair to discourage children and unwanted visitors from accessing the pool area. The wall of a building may be used as one side of the fence if the wall has no openings, including windows and doors, capable of providing direct access to the pool area.

(2) The top of each gate in the fence shall be at least five feet from ground level and kept closed and locked.

(3) Except as provided in paragraph (b)(4), each aboveground pool shall meet one of the following requirements to prevent chance access by children:

(A) Have sidewalls that are at least five feet from ground level; or

(B) Have risers installed on sidewalls that achieve a combined height of five feet from ground level; or

(C) Be fully enclosed by a fence and gate that meet the requirements in paragraphs (b)(1) and (b)(2).

(4) Each aboveground pool with a deck or berm that provides for ground-level access shall have adequate fencing, gating, sidewalls, risers, or a combination thereof, to ensure the pool is inaccessible to children. “Inaccessible to children” shall mean that no section of the perimeter of the pool shall lack either a surrounding fence and gate meeting the requirements of paragraphs (b)(1) and (b)(2), or sidewalls at least five feet from ground level, or a combination of sidewalls and risers at least five feet from ground level.

(5) Steps and ladders shall be removed and stored away from the pool when the pool is not in use if the aboveground pool is not fully enclosed by a fence and gate that meet the requirements in paragraphs (b)(1) and (b)(2). Steps and ladders may remain if the aboveground pool is fully enclosed by a fence and gate that meet the requirements in paragraphs (b)(1) and (b)(2).

(6) Sensors shall not be used in lieu of a fence.

(7) During periods of use, the water in each swimming pool shall be treated with chlorine, bromine, or an equivalent agent approved by the local health department, and shall be maintained between pH 7.2 and pH 7.8. The available free chlorine content for water treated by chlorine shall be between 1.0 parts per million and 3.0 parts per million. The available free chlorine content for water treated by bromine shall be between 1.0 and 6.0 parts per million.

(8) During periods of use, if a stabilized chlorine compound is used, the pH shall be maintained between 7.2 and 7.7 and the free available chlorine residual shall be at least 1.5 parts per million.

(9) The pool shall be cleaned and the chlorine or equivalent disinfectant level and pH level shall be tested every two hours during periods of use. The results of these tests shall be recorded and available for review by the secretary's designee.

(10) Each pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. The equipment shall be of sufficient length to reach the center of the pool from each edge of the pool. The equipment shall be available at all times, including times when the pool is not in use.

(11) The water temperatures shall be maintained at no less than 82 degrees Fahrenheit and no more than 88 degrees Fahrenheit while the pool is in use.

(c) Hot tubs or spas on the premises. If a hot tub or a spa is on the premises, the following requirements shall be met:

(1) Each hot tub and each spa shall be covered with an insulated, rigid cover secured by straps or locks or surrounded by a fence and gate that meets the requirements of paragraphs (b)(1) and (b)(2).

(2) Children in facilities shall not be permitted to use a hot tub or a spa. Children in residential centers and group boarding homes shall be permitted to use hot tubs when medically indicated.

(d) Ponds and lakes. Ponds and lakes may be used for wading or swimming only by children over six years of age, and shall be approved for swimming by the local health department, the department, or the designated authority in the state in which the wading or swimming site is located. Required staff-child ratios shall be maintained at all times, and a certified life guard shall be on duty.

(Authorized by and implementing K.S.A. 2025 Supp. 65-508; effective May 1, 1986; amended Feb. 26, 1990; amended Aug. 2, 2024; amended Sept. 4, 2026.)

***** Authenticated Kansas Administrative Regulation *****