Resolution 17-5-3

A Resolution to rescind Resolutions 94-11, 09-3-3, 12-6-4, and 09-4-4 in their entirety pertaining to the enforcement of public bathing areas. A resolution to authorize the establishment of fees for public bathing areas, providing for the enforcement of standards for public bathing beach areas and penalties for the violation of its provisions.

Whereas, the Zanesville-Muskingum County Board of Health determines in the public health interest of the residents of, and visitors to Zanesville-Muskingum County, to minimize the potential for contracting disease and to promote safety that the following regulations be adopted by authority of Section 3709.21 of the Ohio Revised Code.

BE IT RESOLVED by the Zanesville-Muskingum County Board of Health that the following resolution is adopted as follows:

SECTION 1. DEFINITIONS:

1.1 Bathing: shall mean to become partially or totally immersed in a body of water related to swimming, wading, diving, but excluding fishing, scuba, diving, boating, waterskiing and wakeboarding.

1.2 Board of Health: shall mean the Board of Health of the Zanesville-Muskingum County Health Department combined general health district.

1.3 Beach Closure: shall mean the closure of a bathing beach due to an imminent public health hazard. Such as high levels of e-coli bacteria.

1.4 “Escherichia coli (E. coli): shall mean a specific bacterial species included in fecal coliform bacterial group, the presence of which in surface water has been correlated with gastrointestinal illness in swimmers.

1.5 Health Commissioner: mean the Health Commissioner of the Zanesville-Muskingum County Health Department or their authorized representative.

1.6 Operator: means the person, firm, company, or association that owns, controls, operates, conducts, or manages a bathing beach.

1.7 Permit Year: the period beginning on May 1 of one year and ending April 30th of the next calendar year.

1.8 Public Bathing Beach Area: means all bodies of water sufficiently deep for complete immersion of the body and used collectively by numbers of persons for swimming, or recreational bathing, together with the shores, building, equipment to such bathing areas and recognized as a bathing area operated by a person for the public regardless of whether or not a fee is charged for the use thereof. Public Bathing Beach Area shall not include swimming pools or places at private residences intended only for the
use of the owner, family and guests nor shall it include public swimming pools, spas or special use pools as defined in Chapter 3701-31 of the Ohio Administrative Code.

SECTION 2: PERMIT and FEE REQUIREMENTS

2.1 During the month of April of each year, every person proposing to operate a public bathing beach area during any part of the permit year shall apply for a permit from the Board of Health on a form provided by the Board.

2.2 Each application for an operating permit shall be accompanied with payment of $295.00.

2.3 All permits issued by the Board shall expire on April 30th following the date of issuance.

2.4 Permits shall be displayed in a location conspicuous to the public.

2.5 Applications to operate an existing public bathing area submitted to the Board after April 30th shall pay a penalty fee of 25% in addition to the amount in Section 2.2 herein.

2.6 Any person intending to operate a new public bathing area subsequent to May 1st, shall procure a permit from the Board before the public bathing beach area is opened for use by the public. The permit fee shall be the same as in Section 2.2 herein.

SECTION 3: PLAN APPROVAL REQUIREMENTS

3.1 No person shall construct any new or substantially alter any existing public bathing beach area until the plans have been submitted to and approved in writing by the Health Commissioner.

3.2 All reports, plans and specifications submitted for approval shall clearly show and describe that the applicable provisions of this resolution can be met, and shall include but not limited to:

A. A description of the watershed with location and identification of all potential sources of contamination.

B. The location of access roads, parking, buildings, water supplies, sanitary and storm sewers, electrical and telephone services.

C. The location of the proposed public bathing area relative to the nearest community with services such as medical and fire protection.

D. The maximum bather loads based on a minimum of 25 square feet of water surface per bather in accordance with Section 4 herein.
E. The source, quality, quantity and characteristics of the water.

F. The proposed dates when the public bathing area will be open to the public.

G. List of the experience and number of on-site management and life guard personnel.

H. The location, number and type of all buildings, toilet facilities and plumbing fixtures therein.

I. The location of all safety equipment.

J. The location of all aquatic and/or land use recreational equipment.

K. The total acreage of the body of water and the amount dedicated to the public area.

SECTION 4: SANITARY SURVEY

4.1 Upon receipt of plans to construct or alter a public bathing beach area are and annually before a public bathing beach area is issued a permit to operate, the Health Commissioner shall conduct a sanitary survey of the area having influence on the public bathing beach area.

4.2 The extent of the area to be covered by the sanitary survey shall be determined by the Health Commissioner. The scope of the sanitary survey shall include but not be limited to:

A. The extent of the watershed having influence on the public bathing beach area, to include nearby streams, storm drains, sanitary sewers, un-sewered residential areas, treatment plants, sanitary landfills, animal enclosures and any other potential pollution source deemed by the Health Commissioner.

B. The results of at least 2 E.coli samples within the bathing area and 1 total Fecal coliform sample of the private water supply, if applicable. The physical characteristics of the public bathing beach area water with respect to any offensive odor, color and substances capable of producing quality problems.

C. The physical condition and safety of floating platforms, diving towers, lifeguard chairs, etc.

D. The physical and sanitary condition of all buildings.

E. The sanitary condition and location of water sources and sewage treatment facilities.
4.3 Proposed new and existing public bathing beach areas shall be ordered closed and/or be prohibited from opening when the Health Commissioner determines that a public health or safety threat to the public exists, including but not limited to the following:

A. Discharge from a sewage treatment plant or household sewage disposal system having an adverse effect on the public bathing area.

B. Extensive boat traffic, marinas or boat docks in the immediate area of the proposed or existing public bathing area.

C. When the water quality standards are not in compliance with Section 5 herein.

D. Other conditions deemed by the Health Commissioner that pose an immediate threat to the health and safety to the public.

SECTION 5: WATER QUALITY STANDARDS

5.1 Water at public bathing beaches area used for recreational swimming shall not contain more than 235 colony forming units of E. coli per 100 ml of water sampled.

5.2 When water quality does not meet the standards of Section 5.1, the following advisory shall be posted:

BEACH CLOSED

BACTERIAL LEVELS HERE CURRENTLY EXCEED STATE STANDARDS. THE ZANESVILLE MUSKINGUM COUNTY HEALTH DEPARTMENT ORDERED BATHING BEACH CLOSED.

The water advisory will remain in effect until the standards of Section 5.1 are met.

5.3 At least one E. coli sample collected from the bathing area shall be collected per week during the time the beach is open, weather permitting. The operator shall all water samples to an Ohio E.P.A. accredited laboratory for testing in sufficient time for the laboratory to submit test results for E. coli bacteria to the Health Commissioner within seven days of the sample date.

5.4 At least one Total coliform sample per year shall be from any private water supply to determine the portability of the water supply.

5.5 The public bathing beach water shall be free of deposits, growths, oils, greases, or other substances capable of creating a health or safety hazard. Algae and aquatic vegetation shall be controlled so that no hazard to bathers results.
5.6 Chemicals used for water treatment shall be acceptable to the Health Commissioner and shall be applied by properly trained applicators. Any chemical used, when properly applied, shall not create toxic reactions, including skin or membrane irritations when the public bathing area is open.

SECTION 6: SAFETY REQUIREMENTS

6.1 All public bathing beach areas shall make the following safety equipment available and accessible when the bathing beach is open:

A. One USCG approved type IV personal floatation device with not less than 50 feet of one-quarter inch diameter line per beach with additional units per 150 feet of beach. The accessibility and marking for the flotation device(s) shall be determined by the Health Commissioner upon request by the operator.

B. A back or spine board.

C. A first aid kit shall be provided and include at least disposable latex gloves, a sufficient supply of materials to stop bleeding and to clean or cover minor cuts and abrasions, an ambu bag and an oral airway mask.

D. Buoys. The public bathing beach area shall be marked by the usage of line buoys to clearly identify such area as deemed satisfactory by the Health Commissioner.

E. A telephone shall be available with a posted list of emergency numbers. The licensee shall ensure that the telephone is available at all times the public bathing beach area is open.

6.2 Lifeguards

A. When no lifeguard is on duty when the public bathing beach area is open and when the public bathing beach area is closed, signs shall be posted in a conspicuous location at the entrance to the facility and on the beach stating “WARNING, NO LIFEGUARD”.

B. It is highly recommended that qualified lifeguards be employed to oversee the bathing beach area. A minimum of one lifeguard to every 150 feet of beach and at water attractions such as giving boards, water slides etc., is recommended. Lifeguard qualifications shall be consistent with current regulations.

C. On shore lifeguard stations shall not be located more than 30 feet from the shore line. Lifeguard stations shall be elevated in such a manner to provide a clear, unobstructed view of the bathing beach area. The number of stations shall be consistent with Section 6.2 B herein.
D. Any lifeguard on duty shall be identified by distinguishing apparel.

E. The operator shall post a sign stating location of telephone, first aid assistance, safety equipment and include rules of conduct and hours of operation.

F. When the public bathing beach area is closed, the operator shall post conspicuously at the entrance to the facility and on the beach signs stating, "DANGER-PUBLIC BATHING BEACH AREA CLOSED".

G. Any person suspected of having an infectious and/or communicable disease shall not be permitted to use the public bathing beach area. Any person who has been refused entry to the bathing area under this section may be granted entry upon presentation of a written statement from a physician that the condition is not infectious and/or communicable.

SECTION 7: OPERATION AND MAINTENANCE

7.1 The operator or another person familiar with the operation and maintenance of all equipment and facilities shall be accessible at all times when the public bathing beach area is open.

7.2 The public bathing beach area, toilet facilities, buildings and premises shall be maintained in a clean, sanitary and safe condition.

7.3 An adequate number of approved leak proof, easily cleanable solid waste containers (not steel drums) with self-closing lids shall be placed throughout the public bathing area. These containers shall be emptied as necessary.

7.4 Pets and other domestic animals shall not be permitted in the water or beach area.

7.5 Efforts shall be made to discourage the presence of wildlife which may cause a nuisance or unsanitary condition. The feeding or other enticement of wildlife to the public bathing area is prohibited. The operator shall maintain the public bathing beach area free of any dropping from wildlife and domestic animals as needed.

SECTION 8: INSPECTION

8.1 The Health Commissioner may at any reasonable time during the construction, alteration or operation of a public bathing beach area, inspect or take any other steps which is deemed to be necessary to insure proper compliance with this regulation.

8.2 All public bathing beach areas shall be inspected a minimum of 1 time per year by the Health Commissioner.
SECTION 9: PENALTIES

Each and every day that a violation of this resolution continues shall be deemed to constitute a separate offense.

SECTION 10: SUSPENSION OF REVOCATION OR PERMIT

10.1 If an operator fails to comply with any provisions of this resolution once a time limit for compliance has expired, the Health Commissioner will forward the case to the Board of Health and/or initiate legal action for the immediate correction of all violations.

10.2 The Health Commissioner's recommendations will be reviewed and acted upon by the Board on a date set by the Board of Health. The board's decision shall be served upon the operator affected by certified mail, returned receipt requested. In the event the notice is denied or returned, the notice shall be posted upon the premises and delivered.

SECTION 11: RIGHT OF HEARING AND APPEALS

11.1 Any operator affected by a notice of an alleged violation may request and shall be granted a hearing before the Health Commissioner.

11.2 After such hearing, the Health Commissioner shall sustain, modify or withdraw the notice of alleged violation depending upon his findings as to whether the provisions of this regulation have been complied with. Notice of the decision of the Health Commissioner shall be served upon the persons affected in the manner provided for in Section 10.2 herein.

11.3 Any person affected by the decision of the Health Commissioner as provided for in Section 11.2 hereof, shall be entitled to appeal the decision for the Health Commissioner to the Board of Health. Written notice of the appeal must be filed with the secretary of the Board of Health within five (5) days of personal service of the Health Commissioner's decision, signature by the addressee on the return receipt, or the date of posting of the Commissioner's decision upon the premises. Said notice shall state the order appealed from and the address to which the hearing notice shall be mailed.

11.4 The Board of Health may hear the appeal on a date set by the Board provided that no hearing shall be held sooner than five (5) days from the date of the filing of said notice of appeal is to be heard shall be given to the appellant by regular U.S. mail at the address shown in appellant's notice of appeal. Said appellant shall be entitled to
appear personally and/or with counsel, at said meeting of the Board of Health. The Board of Health may continue the hearing on said appeal from time to time until said hearing is completed. The Board of Health shall modify, withdraw, or sustain the order of the Health Commissioner made pursuant to this regulation. The copy of the decision of the Board of Health shall be mailed by regular U.S. mail to the appellant at that address shown in the notice of appeal.

SECTION 12: EFFECT OF PARTIAL INVALIDITY

Should any part of this resolution be declared unconstitutional for any reason, the remainder of this resolution shall not be affected thereby and shall remain in full and effect.

SECTION 13: Resolutions 94-12, 09-4-4, 12-6-4, and 09-3-3 rescinded in their entirety.

Adopted by the Board of Health of the Zanesville-Muskingum County Health Department this July 20, day of 2017.

James Shepherd, President
Zanesville-Muskingum County Health Department

Corey Hamilton, MS, RD, LD, Secretary
Zanesville-Muskingum County Health Department