

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

DRAFT BY-LAWS FOR THE SAFE GUARDING OF SWIMMING POOLS

The Municipal Manager of the City of Johannesburg Metropolitan Municipality hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), publishes the By-Laws for the Safe Guarding of Swimming Pools for the City of Johannesburg Metropolitan Municipality, as approved by its Council, as set out hereunder.

Definitions

1. In these by-laws, unless the context otherwise indicates –

“approved” and “adequate” mean approved by, and adequate in the opinion of, the Council regard being had to the reasonable requirements of the particular case;

“authorised official” means any official of the Council who has been authorised by the Council to administer, implement, and enforce the provisions of these By-laws;

“child means a child under the age 4 years;

“Council” means –

- (a) the Metropolitan Municipality of the City of Johannesburg established by Provincial Notice No 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); or

DRAFT

ANNEXURE B

- (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act (Act No. 32 of 2000) or any other law, as the case may be;

“enclosure” means a fence, wall or other enclosure;

“exit alarm” means a device that makes an audible, continuous alarm sound when any door or gate or floor glide system, that permits access to the pool area, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building;

“fence” means an enclosure, wall or other structure, including doors and gates, surrounding a swimming pool to restrict access thereto;

“floor glide systems” means a portion of the floor that retracts under the adjoining floor to reveal the pool;

“floating pool alarm device” means a device that is installed in the pool and once it is activated, any motion will set off a siren in the pool and a siren on the premises;

“gate” means a part of a swimming pool fence which opens on hinges and includes a door located in the wall of an attached or detached garage or carport which forms part of the swimming pool fence;

“inspection” means an assessment of a swimming pool and the area in the immediate vicinity of the swimming pool by an authorised official, as well as any other area which may reasonably need to be assessed by the authorised official, in order for a proper inspection to be done;

“immediate vicinity of the swimming pool” means the land in which the pool is situated and so much of the surrounding area as is used for activities or purposes carried on in conjunction with use of the pool;

“indoor pool” means a privately owned excavation, structure, or product that is used or is capable of being used for the purpose of swimming, wading, paddling or bathing, and includes any excavation, structure, or product that is a spa pool which is internally contained within the confines of a building structure;

“Municipality” means the area of jurisdiction of the Council;

“outdoor swimming pool” means a privately owned excavation, structure, or product that is used or is capable of being used for the purpose of

swimming, wading, paddling, or bathing, and includes any excavation, structure, or product that is a spa pool and is situated outside the building;

“permit” means a document that states the registration number of the swimming pool, as well as the relevant details of the owner of the swimming pool, and the document must state that the safety requirements as set by the Council have been complied with;

“pool cover” means a manually or safety operated pool cover that meets all of the performance standards prescribed by the National Spa and Pool Institute of South Africa, which requirements shall be available from the Council;

“premises” means any land, building or structure;

“protective safety barrier” means a structure including, but not limited to, a removable fence, that isolates the pool from the home and eliminates all unauthorised access to the pool, and a pool net;

“removable fence” means a transparent, polyester mesh mounted on aluminium or fibre glass support poles placed into aluminium or plastic sleeves installed flush into the deck, and includes a self-locking gate;

“registration” means the listing of a privately owned swimming pool in the register of privately owned swimming pools, of the Council;

“self latching device” means a mechanical device or latch which is engaged each time the swimming pool fence gate is secured to its closed position, which will not allow the swimming pool fence gate to be re-opened by pushing or pulling, and which will ensure the swimming pool fence gate remains closed until unlatched by either lifting or turning the device itself directly or by a key;

“swimming pool” means a privately owned indoor or outdoor swimming pool containing or capable of containing at any point, water to a depth of more than 300mm.

Registration and Application for Permit

- 2. The owner of any premises must advise the Council of-
 - (a) every swimming pool thereon within 90 days of the promulgation of these by-laws;
 - (a) every swimming pool constructed or erected thereon after the

DRAFT

ANNEXURE B

promulgation of these by-laws, before such swimming pool is filled with water.

- 3 (1) After 2 years after promulgation of these by-laws, no person, being the owner of any swimming pool, shall keep, use, operate and maintain any such swimming pool unless he/she has a permit issued by the Council in which the pool is registered.
- (2) The Council shall establish and maintain a register of all swimming pools in the Municipality, and that register shall note, in respect of each pool, its compliance or otherwise with these by-laws.
- (3) No owner of any swimming pool shall keep, use, operate and maintain any swimming pool unless he or she is compliant with these by-laws.
- (4) An application for registration of any swimming pool must be made on "Form A" attached in Schedule C hereto.
- (5) Once an application for registration is received, the Council shall, within two weeks of such receipt, mandate an authorised official to inspect the applicant's swimming pool, and based on the authorised official's report, decide whether a permit should be issued or not.
- (6) The Council shall not unreasonably refuse to issue a permit.
- (7) The owner of a swimming pool will be responsible for any fees and fines in terms of these by-laws.

Enclosing of Outdoor Swimming Pools

4. (1) The owner of any premises on which at the promulgation of these by-laws an outdoor swimming pool is in existence or on which the construction of an outdoor swimming pool is started within a period of 90 days after such promulgation, shall not later than 2 years after such promulgation cause every outdoor swimming pool on the premises to be protected by an enclosure which complies with the requirements of subsection (3).
- (2) The owner of any premises on which the construction of an outdoor swimming pool is started subsequent to the expiry of 90 days after promulgation of these by-laws, shall cause such to be protected by an enclosure which complies with the requirements of subsection (3), before such swimming pool is filled with water.

DRAFT

ANNEXURE B

- (3) The enclosure contemplated in subsection (1) and (2) shall -
- (3.1) be a wall or fence that complies with SABS 0400-1990 as contemplated in Part D of the National Building Regulations under the National Building Regulations and Building Standards Act, 1986; or
 - (3.2) be an enclosure that complies with the following requirements -
 - (a) be strong and durable;
 - (a) entirely surround the swimming pool;
 - (b) be not less than 1,2 m in height;
 - (c) be so situated, constructed and maintained, that a child is not able to climb over, crawl under, squeeze through or otherwise gain access to the swimming pool, except through the gate or door forming part of the enclosure if is open;
 - (d) have fitted to every such gate or door an approved self-closing and self locking device, an exit alarm and a catch inaccessible to a child from the outside which device and catch shall be maintained in good working order;
 - (e) nowhere be less than 1 m measured horizontally from the water's edge.
- (4) Every outdoor swimming pool shall be secured with a pool cover or be fitted with a floating pool alarm device, at all times during which the pool is not in use.
- 5 An enclosure complying with Schedule A or Schedule B or a portion thereof with Schedule A and the remaining portion with Schedule B, shall be deemed to be constructed in compliance with section 4(3.2)(d).
- (1) Notwithstanding the provisions of section 4, the Council may on such conditions as it may consider necessary, exempt any owner of premises from having to comply with that section if the Council is satisfied with the efficiency of other means of protection which are used.

- (2) Every owner of premises to whom an exemption has been granted, in terms of subsection (1), shall take all reasonable measures to ensure that every occupier of such premises is aware of every condition imposed in terms of that subsection and that such occupier complies with every such condition.

Protective Safety for Indoor Swimming Pools

- 6 (1) Every indoor swimming pool must be fitted with a floor glide system of which the floor has to be suitable for light pedestrian traffic.
- (2) Every indoor swimming pool shall be secured with the floor glide system or be fitted with a floating pool alarm device, at all times during which the pool is not in use.

Gates

- 7 (1) Gates shall be of the same construction and height as that required for the fence.
- (2) Gates shall be supported on substantial hinges.
- (3) All gates shall contain a self-locking device.
- (4) The swimming pool area must be secure at all times, except when actually used by the owner or by adults authorized by the owner to use the pool.

Existing Privately Owned Swimming Pools

- 8 (1) Existing outdoor swimming pools, which are already fenced at the passing of this by-law, shall be inspected by an authorised official, to determine whether the existing fence is adequate to protect against safety hazards that this by-law seeks to combat.
- (1) Where a swimming pool fence has been installed prior to the passing of this by-law, and is determined by the authorised official to be fenced in such a way as to provide adequate safety, it shall be deemed to comply with this by-law.
- (2) If the existing fence does not meet the requirements of the by-law, then such fence shall be modified by the owner to comply within the requirements herein.

- (3) Existing floor glide systems which are already in existence at the passing of this by-law shall be inspected by an authorised official, to determine the existing glide system is adequate to protect against the safety hazards that this by-law seeks combat.

Notice to comply

- 9 If any swimming pool is not protected as required by section 4, and an exemption has not been granted in terms of section 5 or if any condition imposed by the Council in granting such exemption has not been complied with, the Council may by notice in writing require the owner of the premises concerned to comply with section 4, or to comply with any such condition, within a reasonable period of not less than 7 days specified in such notice.

Inspection

- 10 Any authorised officer of the Council may for any purpose connected with the carrying out of the provisions of these by-laws at all reasonable times and without prior notice enter any premises in or upon which there is a swimming pool or in or upon which such officer has reasonable grounds for suspecting the presence of a swimming pool and carry out such inspection as he deems necessary.

Obstruction

- 11 No person shall -
- (a) fail to give or refuse access to any officer of the Council authorised by these by-laws or by the Council to enter upon and inspect premises, if he requests entrance to any premises; or
 - (b) obstruct or hinder such officer in the execution of his duties in terms of these by-laws; or
 - (c) fail or refuse to give information that he may lawfully be required to give such officer, or give to such officer false or misleading information knowing it to be false or misleading.

Offences and penalties

- 12 Any person who –
- (a) contravenes or fails to comply with any provisions of these By-laws;

- (b) fails to comply with any notice or other document issued or displayed in terms of these By-laws;
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these By-laws

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Short title

- 13 These by-laws are called the By-Laws for the Safe Guarding of Swimming Pools.

---0---

Schedule A

Swimming Pool Wall Suitable for Excluding Children

Any wall that forms part of an enclosure shall comply with the following requirements:

- 1. Such wall shall -
 - (a) be of concrete, brick or other approved material;
 - (b) extend to a height measured from ground level, of at least 1,2 m;
 - (c) have, up to a height at least 1,2 m above ground level a smooth vertical outer surface that is free from any recess or projection capable of providing a foothold for a child.

2. There shall not be a gap exceeding 100 mm horizontal measurement between the wall and any fencing post or gate post forming part of the enclosure.
3. Every gate panel forming part of the enclosure shall comply with the requirements specified in clauses 1 and 3 of Schedule B.
4. Every gate post forming part of the enclosure shall comply with the requirements specified in clauses 4 and 5 (a) of Schedule B.

Schedule B**Swimming Pool Fence Suitable for excluding children**

1. Every fence that forms an enclosure or part of an enclosure shall be assembled from individual fencing panels and gate panel, and all the panels shall be retained in positions by posts that are secured below ground level.
2. Every fencing panel -
 - (a) shall be rectangular and of length not more than 2,5 m and height not less than 1,2 m;
 - (b) shall not have any diagonal bracing;
 - (c) shall consist of vertical and horizontal round mild steel bars of at least 10mm diameter or other approved metal and such vertical bars shall be parallel to the vertical axis of the panel;
 - (d) shall be so assembled, by fusion, spot welding or other approved means of permanently securing the bars at each point of junction that -
 - (i) the horizontal distance between adjacent vertical bars is not more than 100 mm and such bars shall not deflect more than 10mm when a horizontal force of 8 kg is applied;
 - (ii) the vertical distance between adjacent horizontal bars is not less than 900 mm;
 - (iii) the bottom horizontal bar is not more than 150 mm above ground level and the top horizontal bar not less than 1,05 m above ground level; and

(iv) every horizontal bar is on the pool side of the fence.

3. Every gate panel shall -

- (a) be rectangular and of width of at least 750 mm and height at least 1,2 m;
- (a) comply with the requirements of clauses 2(b), (c) and (d);
- (b) Be fitted with an exit alarm;
- (d) be fitted with an adequate spring or other approved device that closes it automatically; and
- (e) be fitted, on the swimming pool side of the gate and at least 1,125 m above ground level, with an approved locking device which -
 - (i) latches automatically onto a catch contemplated in clause 4(2)(c);
 - (ii) is of such construction that a child cannot open it; and
 - (iii) can be opened manually from a position outside the enclosure only by reaching over the top of the gate.

4. (1) Every fencing and gate post shall have a length of at least 1,7m and be made of -

- (a) metal piping with an outside diameter of the least 38 mm and wall thickness of at least 2 mm; or
 - (b) solid metal with a nominal diameter of at least 20 mm.
- (2) (a) One of the gate posts shall be fitted with at least two hinges for supporting a gate panel.
- (b) Such hinges shall be so located and so shaped that it is not possible for a child to get a foothold on either of them.
 - (c) The other gate post shall be so fitted with a catch that the catch engages the locking device on the gate panel, and prevents the gate from opening.

5. Every fencing and gate post shall be so installed that-

DRAFT

ANNEXURE B

- (a) (i) the base of each gate post is at least 500 mm below ground and is embedded at least 200 mm deep in a concrete cube measuring 300 mm x 300 mm; or
- (ii) if local conditions make compliance with subparagraph (i) impracticable, each post shall be secured in some other approved manner;
- (b) every fencing panel is adequately and permanently secured to the posts in such positions that the bases of their vertical bars just make contact with the ground surface.

Schedule C

**APPLICATION FOR REGISTRATION OF SWIMMING POOL
FORM A**

Name of Pool Owner.....

Address of Owner

.....
.....
.....
.....

Type of Pool.....
(i.e) spa/swimming/indoor/outdoor)

Size of Pool.....

Existing Protective Safety Barrier

.....
.....
.....
.....

I,.....
hereby apply for registration of the above pool in terms of the City of
Johannesburg Metropolitan Municipality By-Laws for the Safe Guarding of
Swimming Pools.

Signature of Owner.....

Date: