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## LOCAL AUTHORITY NOTICES

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### LOCAL AUTHORITY NOTICE 93



<p style="text-align: center;"><b>LEPHALALE LOCAL MUNICIPALITY</b> <b>SAFE GUARDING OF SWIMMING POOLS BY-LAWS</b></p>
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The Municipal Manager of Lephalale Local Municipality hereby in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) publishes the Safe Guarding of Swimming Pools By-Law for Lephalale Local Municipality as approved by its Council, as set out hereunder

#### TABLE OF CONTENTS

1. Definitions
2. Application of by-law
3. Registration and application for permit
4. Enclosing of outdoor swimming pools
5. Protective safety for indoor swimming pools
6. Gates
7. Existing swimming pools
8. Notice to comply
9. Inspection
10. Obstruction
11. Indemnification from liability
12. Transitional arrangements
13. Offences and penalties
14. Short title and commencement

#### SCHEDULES

- Schedule A
- Schedule B

#### 1. Definitions

In this By-law, unless the context otherwise indicates –

"approved" means approved by the Municipality in writing;

"authorized agent" means –

- (a) any person authorized by the Municipality to perform any act, function or duty in terms of, or exercise any power under this by-laws;

(b) any person to whom the Municipality has transferred the performance of certain rights, duties and obligations in respect of this by-law;

**"authorized official"** means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of this by-law;

**"Building Regulations"** means the National Building Regulations made under the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

**"Council"** means the council of the Lephalale Local Municipality;

**"enclosure"** means a fence, wall or other enclosure;

**"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;

**"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;

**"municipality"** means Lephalale Local Municipality;

**"municipal manager"** means a person appointed as the municipal manager in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

**"person"** means any person, whether natural or juristic and includes, but is not limited to a local government body, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

**"Permit"** means a written 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 the performance standards prescribed by the National Spa and Pool Institute of South Africa, which requirements shall be available from the Council;

**"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 swimming pools in the register of the municipality;

**"Swimming pool"** means indoor or outdoor swimming pools containing or capable of containing or containing at any point, water to a depth of more than 300mm.

## **2. Application of by-law**

- (1) The provisions of this by-law apply within the jurisdictional area of the Lephalale Local Municipality.

## **3. Registration and application for permit**

- (1) An application for permit and registration of any swimming pool must be made to the municipality on a form obtained from the municipal offices.
- (2) Once an application is received, the Council shall, within two weeks of such receipt, mandate an authorised official to inspect the premises where the swimming pool is intended to be constructed, and based on the authorised official's report, decide whether a permit should be issued or not;
- (3) The Council shall not unreasonably disapprove the application for permit and registration but if the application is disapproved the municipality shall provide the applicant with reason thereof.
- (4) The owner of a swimming pool shall be responsible for any fees and fines in terms of this by-law as outlined in the municipal tariffs determined from time to time.
- (5) No owner of any swimming pool shall construct, keep, use, operate and maintain any swimming unless he or she comply with the provisions of this by-law, building regulations and any other applicable legislation.
- (6) The Council shall establish and maintain a register of all swimming pools in the municipality and the register shall note each pool, its compliance or otherwise.
- (7) Applicants of swimming pools must comply with schedule "A" and "B" of this by-law.

## **4. Enclosing of outdoor swimming pools**

- (1) The owner of any premises on which the construction of an outdoor swimming pool is started subsequent to the expiry of the ninety (90) days after promulgation of this by-law, shall cause such to be protected by an enclosure which complies with the requirements of subsection (2), before such swimming pool is filled with water.
- (2) The enclosure shall-
  - (a) be a wall or fence that complies with SABS 0400-1990 as contemplated in Part D of the National Building Regulations Under the Building Regulations or
  - (b) be an enclosure that complies with the following requirements-
    - (i) be strong and durable;
    - (ii) entirely surround the swimming pool;
    - (iii) be not less than 1m in height;
    - (iv) 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; and
    - (v) have fitted to every gate or door an approved self-closing and self locking gate or door.

- (3) 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.
- (4) Notwithstanding the provisions of section 5, the Council may on such conditions as it may consider necessary, exempt any owner of premises from having to comply with section 5 if the Council is satisfied with the efficiency of other means of protection which are used.
- (5) Every owner of premises to whom an exemption has been granted, shall take all reasonable measures to ensure that every occupier of such premises is aware of every condition imposed.

#### **5. Protective safety for indoor swimming pools**

- (1) Every indoor swimming pool –

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

#### **6. Gates**

- (1) All gates must comply with schedule "B" of this by-law and shall-

- (a) be of the same construction and height as that required for the fence;
- (b) be supported on the substantial hinges; and
- (c) contain a self locking device.

- (2) The swimming pool area must be secured at all times, except when actually used by the owner or by adults authorized by the owner to use the pool.

#### **7. Existing Swimming Pools**

- (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.
- (2) 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.
- (3) If the existing fence does not meet the requirements of the by-law, then such fence shall be modified by the owner to comply with the requirements herein.
- (4) 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 if the existing glide system is adequate to protect against the safety hazards that this by-law seeks to combat.
- (5) An authorised official shall ensure that existing swimming pools comply with schedule "A" and "B" of this by-law.

**8. Notice to comply**

- (1) The Municipality may, by a notice of compliance, which must be in writing, order an owner, to comply with the provision of this by-law or to any condition imposed hereunder, to remedy such breach within a period of not less than seven(7) days specified in the notice, and the notice must specify –
  - (a) the name, residential and postal address, if either or both of these be known, of the affected person;
  - (b) the provision of this by-law which has not been complied with;
  - (c) sufficient detail to enable compliance with the notice, the measures required to remedy the situation; and
  - (d) that the person must within a specified period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specified date;

**9. Inspection**

- (1) Any authorised officer of the Council may for any purpose connected with the carrying out of the provisions of this by-law 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 or she deems necessary.

**10. Obstructions**

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

**11. Indemnification from liability**

- (1) Neither employees of the Municipality nor any person, body, organisation or corporation acting on behalf of the Municipality is liable for any damage arising from any omission or act done in good faith without any fault in the course of his or her duties.

**12. Transitional arrangements**

- (1) The owner of any premises on which at the promulgation of this by-law an outdoor swimming pool is in existence must advise the Council of every swimming pool thereon within ninety (90) days of the promulgation of this by-law.
- (2) The owner of any premises on which the construction of an outdoor swimming pool is started subsequent to the expiry of the ninety (90) days after promulgation of this by-law, shall cause such to be protected by an enclosure which complies with the requirements of this by-law before such swimming pool is filled with water.

**13. Offences and penalties**

(1) A person who—

- (a) obstructs or hinders the Municipality in the exercising of the powers or performance of functions or duties under this by-law;
- (b) contravenes or fails to comply with any provision of this by-law;
- (c) fails to comply with any notice or other document issued or displayed in terms of this by-law; or
- (d) fails to comply with any lawful instruction given in terms of this by-law

shall upon conviction be guilty of an offence and be liable to a fine or in default of payment to imprisonment for a period not exceeding six months.

**14. Short title and commencement**

- (1) This by-law is called Lephalale Local Municipality Safeguarding of Swimming Pools By-Law and commence on the date of publication thereof in the *Provincial Gazette*.

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**SCHEDULE A****Swimming Pool walls**

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

(a) Such wall shall-

- (i) be of concrete, brick or other approved material; and
- (ii) extend to a height measured from ground level of at least 1m above ground level.

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 clause 1 and 3 of Schedule B.

4. Every gate forming part of the enclosure shall comply with the requirements specified in clauses 4 and 5 (a) of schedule B.

**SCHEDULE B****Swimming Pool fences**

1. Every fence that forms part of an enclosure shall be assembled from individual fencing panel and gate panels shall be retained in positions by posts that are secured below ground level.
2. Every fencing panel-
  - (a) shall be of a height of at least 1m from the ground level;
  - (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 100mm and such bars shall not deflect more than 10mm when a horizontal force of 8kg is applied;
    - (ii) the vertical distance between adjacent horizontal bars is not less than 90mm;
    - (iii) the bottom horizontal bar is not more than 150mm above ground level; and the top horizontal bar not less than 1,05m 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 the width of at least 750 mm and a height of at least 1m;
  - (b) comply with the requirements of clause 2(b),(c) and (d);
  - (c) be fitted with an adequate spring or other approved device that closes automatically and be fitted with an approved locking system; and
  - (d) be of such construction that a child cannot open it.
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 at least 38 mm and a wall thickness of at least 2mm; and
  - (b) solid metal with a nominal diameter of at least 20mm(2)
  - (a) One of the gate posts shall be fitted with at least two hinges for supporting a gate panel
  - (c) 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
  - (d) The other gate post shall be so fitted with a catch that the catch engages the locking device on the gate panel, prevents the gate from opening.
5. Every fencing and gate post shall be so installed that-
  - (a)
    - (i) the base of each gate post is at least 500mm below ground and is embedded at least 200mm deep in a concrete cube measuring 300mm x 300mm; 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 surface.