

LEKWA LOCAL MUNICIPALITY



DRAFT PRIVATELY OWNED SWIMMING POOLS BY-LAW

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000, as amended), made the following By-law:

PRIVATELY OWNED SWIMMING POOLS BY-LAW

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1. DEFINITION

For the purposes of this By-law, unless the context otherwise indicates –

- “authorised official”** means an official of the municipality who has been authorized by the municipality to administer, implement and enforce the provisions of this By-law;
- “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 the swimming pool to restrict access thereto;
- “floor glide system”** means a portion of the floor that retracts under the adjoining floor to reveal the pool;
- “floating pool alarm devices”** means a device that is installed in the pool and once it is activated, any motion detected will set off a siren in the pool area in the house;
- “gate”** shall mean a part of the 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 authorized official, as well as any other area which may reasonably need to be assessed by the authorized 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, padding, or bathing and includes any such excavation, structure, or product that is a spa pool which is internally contained within the confines of a building structure.

"Municipality"	means the Lekwa Local Municipality;
"Municipal Council"	means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996:
"Municipal Manager"	means the person appointed by the Municipal Council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act. 32 of 2000 and includes any person – <ul style="list-style-type: none"> a) acting in such a position; b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;
"outdoor swimming pool"	means a privately excavation, structure, or product that is used or product that is used or is capable of being used for the purpose of swimming, wading, paddling, or bathing, and includes any such excavation, structure, or product that is a spa pool and is situated outside any building.
"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 municipality.
"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 standards as set by the Municipal Council have been complied with.
"protective safety barrier"	means a structure including, but not limited to, a removable fence, that isolates the pool from the home and eliminates all unauthorized access to the pool, and a pool net.
"removable fence"	means a transparent, polyester mesh mounted on aluminum or fibre glass support poles placed into aluminum 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 Municipal Council.
"swimming pool"	means an indoor swimming pool or an outdoor swimming pool.
"self latching device"	means a mechanical device or latch which is engaged each time the swimming fence gate is secured to its closed position, which will not allow 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.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

2. REGISTRATION AND APPLICATION FOR PERMIT

- (1) No person, being the owner of any swimming pool, shall keep, use, operate and maintain any swimming pool unless he/she has a permit issued by the Municipality in which the pool is registered.
- (2) The municipality 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 this By-law.
- (3) No person, being the owner of any swimming pool, shall keep, use operate and maintain any swimming pool unless he or she is complaint with this By-law.
 - a. An application for registration of any swimming pool shall be made to the Municipality.
 - b. Once an application for registration is received, the Municipality shall, within two weeks of such receipt, mandate an authorized official to inspect the applicant's swimming pool, and based on the authorized official's report, decide whether a permit should be issued or not.
 - c. The Municipality shall not unreasonably refuse to issue a permit.
 - d. The owner of a swimming pool will be responsible for any fees and fines in terms of this By-law.

3. PROTECTIVE SAFETY BARRIER

- (1) No person shall have an outdoor swimming pool unless the area is completely enclosed by fencing in compliance with this by-law, the National Building Regulations and Building Standard Act 1977 (Act 103 of 1977) as amended.
- (2) Every owner of an outdoor swimming pool must ensure that there is at least a removable fence surrounding the pool.
 - a. Such fencing, including self locking gates therein, shall extend from the ground to a height of not less than 1.4 meters high, and shall fulfill the intent of prohibiting unauthorized trespass into the pool area.
 - b. The fence shall meet any further requirements set down by the National Spa and Pool Institute of South Africa, which requirements shall be available from the Municipality.

- c. Every indoor swimming pool must be fitted with a floor glide system of which the floor has to be suitable for light pedestrian traffic.
- d. Every outdoor swimming pool shall be secured with a pool cover at all times during which the pool is not in use
- e. Every indoor swimming pool shall be secured with a floor glide system at all times during which the pool is not in use.

4. GATES

- (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 secured at all times, except when actually used by the owner or by adults authorized by the owner to use the pool.

5. ALARM DEVICE

- (1) All swimming pools must have a floating alarm device installed.
- (2) All protective safety barriers must have an exit alarm incorporated within.
- (3) All floor glide systems must have an exit alarm incorporated within.

6. EXISTING PRIVATELY OWNED SWIMMING POOLS

- (1) Existing outdoor swimming pools which are already fenced at the passing of this By-law, shall be inspected by an authorized 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 it is determined by the authorized 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 this By-laws then such fence shall be modified by the owner to comply within the requirements herein.
- (4) Existing floor glide systems which are already in existence at the passing of this By-law shall be inspected by the authorized official to determine whether the existing floor glide system is adequate to protect against the safety hazards that this By-law seeks to combat.

7. PENALTIES AND OFFENCES

- (1) Any person who;
 - a. contravenes or fails to comply with any provision of these By-laws; or
 - b. fails to comply with any notice issued in terms of or for the purposes of this By-law; or

- c. fails to comply with any lawful instruction given in terms of or for the purposes of the this By-law; or
- d. obstructs or hinders any authorized official or representative or employee of the Municipality in the execution of his or her duties under this By-law;

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 (6) months and in a continuing offence, to a further fine not exceeding R500.00, 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 Municipality and served on the person concerned requiring the discontinuance of such offence.

8. REPEAL OF BY-LAW

- (1) Any By-laws adopted by the Municipal Council or any Municipal Council of any Municipality now forming an administrative unit of the Municipality and relating to privately owned swimming pools are hereby repealed.

9. SHORT TITLE

- (1) This By-law shall be called Privately Owned Swimming Pool By-laws 2015.