



# Fencing of Swimming Pools Policy



SOUTH TARANAKI DISTRICT  
COUNCIL  
ENVIRONMENTAL SERVICES  
MARCH 2012

## **FENCING OF SWIMMING POOLS POLICY**

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### **Executive Summary**

The South Taranaki District Council Fencing of Swimming Pools Policy outlines the requirements of legislation, defines how the Council interprets sections of the Fencing of Swimming Pools Act 1987 (the Act) and covers the operation and inspection routine undertaken by the Council.

### **Current situation**

The adoption of a Fencing of Swimming Pools Policy will ensure the Council is meeting legislative requirements and contributing to increasing swimming pool safety in the District.

### **Councils role and responsibility**

Every Territorial Authority is responsible for the enforcement of the Act. Therefore it is the role of the Council to monitor and enforce the regulations required under the Fencing of Swimming Pools Act 1987.

The Council's responsibility is to:

- (1) take reasonable steps to ensure that every swimming pool in the district meets the requirements of the Fencing of Swimming Pools Act 1987 within the South Taranaki District.
- (2) ensure that inspections are made every five years to maintain a current database of registered pools and enforce the Act.

### **Purpose of the Policy**

To ensure that the Council:

- inform pool owners of their responsibilities under the Act
- locate existing swimming pools in the area and keep a current database
- conduct inspections and assess compliance; and
- undertake enforcement action if there is failure of compliance.

This policy shall also:

- define what can be expected during the building and maintenance of a swimming pool in South Taranaki
- defines the role of the inspector; and
- defines what South Taranaki District Council considers to be compliance with the Act.

### **Aim**

This Policy shall highlight the expected level of compliance for swimming pool fencing, and will contribute to increasing awareness of swimming pool safety, the legislative requirements of all pool owners in this district, and to ensure the purpose of the Act is met.

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### **Requirements of the Act**

- Every pool owner is required under the Act to inform the Council that a pool is present on their property.
- Every pool owner is required to fence the pool area in accordance with the Act.
- Every pool owner is required to maintain the correct standard of operation of the fence and gate or door, in accordance with the Act.
- The Council is to enforce and monitor compliance under the Act.

### **Policy**

#### **1.0 Offences and Fines**

- 1.1 It is an offence to neglect to inform the Council that a swimming pool is present on your property.
- 1.2 It is an offence to operate and own a swimming pool which does not comply with the Act.
- 1.3 Any person who commits an offence is liable to a summary conviction not exceeding \$500 and any continuing failures are liable for a further fine not exceeding \$50 for each day the failure exists.

#### **2.0 New pools**

- 2.1 The Council requires a Council appointed Building Control Officer to inspect a new swimming pool, to ensure that the fence meets the requirements of the Act and that the swimming pool is registered with the Council.
- 2.2 Any person wishing to install a new swimming pool or spa is required to inform the Council before installation commences.
- 2.3 A building consent under the Building Act 2004 is considered to be notification.
- 2.4 A Code Compliance Certificate is required for any new pool fencing, before the pool fence and pool area can be deemed compliant in the fencing of swimming pool database.

#### **3.0 Existing pools**

- 3.1 Existing swimming pools are required to be registered with the Council and comply with the regulations under the Fencing of Swimming Pools Act 1987.

#### **4.0 Above-ground Spa Pools and Hot Tubs**

- 4.1 The Council recognises the New Zealand Standard NZS8500:2006 and defines fencing requirements for above ground spa pools and hot tubs under this safety standard.
- 4.2 An application for a *spa or hot tub special exemption* needs to be made by the owner of the spa or hot tub.

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- 4.3 Any spa or hot tub that is recessed into the ground or into a deck is defined as a swimming pool under the Act and requires fencing. A special exemption is not able to be made, as it does not meet section 3.10,(a) of NZS8500:2006.

### **5.0 Spa or Hot Tub Special Exemption**

- 5.1 All conditions of the New Zealand Standard 8500:2006 are required to be met before an exemption can be granted (*refer to Schedule three*)
- 5.2 Special exemptions are only issued to an individual and not to the property at which the pool is present.
- 5.3 The applicant is under sole responsibility to maintain the barrier and conditions of the special exemption. If conditions of the special exemption are breached, an appointed officer is able to withdraw the special exemption at any time with written approval of the Regulatory Services Manager.

### **6.0 Registration and Inspection**

- 6.1 To register a property which has a swimming pool, the prescribed form (*Swimming Pool Registration Form*) is required to be completed and signed by the owner, and returned to the Council, with payment of the prescribed fee.
- 6.2 Every owner of land or owner defined under the Act shall inform the Council in the prescribed form, of the presence of a swimming pool on their property.
- 6.3 Registered Swimming pools in the District are inspected on a five year rotation.

### **7.0 Inspection and monitoring**

- 7.1 The Council shall inspect registered swimming pools once every five years.
- 7.2 An Officer of the Council shall send a letter informing the owner of the date and time of inspection.
- 7.3 An authorised Officer shall inspect the swimming pool and inform the owner in writing if there are any breaches of the Act that require remedy. The Officer shall state a timeframe in which the breaches are required to be rectified.
- 7.4 When compliance is achieved the owner will be issued with a Pool WOF certificate.
- 7.5 During an inspection an authorised officer shall issue the pool owner with water safety signage as required.
- 7.6 During the first inspection the authorised Officer will take a photograph of the pool. Further photographs may be required to document the state of the fencing at the time of inspection or to document any breaches of the Act.
- 7.7 Operational stickers are to be attached to any door, gate and the like, that is part of a dwelling that forms an integral component of the fence.

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### **8.0 Powers of entry**

- 8.1 If an authorised Officer has reasonable grounds to believe a swimming pool is present and/or the pool is not fenced as required of the Act, the authorised Officer is able to enter land and carry out an inspection to determine compliance with the Act.
- 8.2 An authorised Officer is able to enter land that is registered with the Council in the swimming pool database and carry out an inspection to determine compliance with the Act.
- 8.3 If entry is refused to any house, home unit or apartment building where a swimming pool is present, an authorised warrant must be obtained by the authorised officer. A written application to a judicial officer will be made, in the case where it is essential to complete an inspection of a swimming pool.

### **9.0 Fees**

- 9.1 The Council reserves the right to impose a fee for an inspection of a swimming pool, spa or hot tub. The cost of a swimming pool, spa or hot tub inspection is included on the Council fee schedule.
- 9.2 The Council reserves the right to impose a fee for any subsequent inspections due to non compliance of the Act.

### **10.0 Delegations**

- 10.1 Authorised officers are warranted to act in accordance with this policy and the Act.

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### Definitions

**Swimming pool or pool** is defined as an 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 such excavation, structure, or product that is a spa pool.

**Owner** is defined as the owner of the pool, except: where the pool is subject to a hire purchase, which means the purchaser of the pool. Where the pool is on premises that are not subject to a tenancy under the Residential Tenancies Act and the pool is subject to a lease, in which case it means the lessee of the pool or premises.

**Immediate pool area** is defined as the land in or on which the pool is situated and so much of the surrounding area as is used for activities or purposes carried on in conjunction with the use of the pool.

**Authorised officer** is any person authorised in writing by the South Taranaki District Council or any inspector appointed by the South Taranaki District Council under the Fencing of Swimming Pools Act 1987 or under the Building Act 2004.

**Council** is the South Taranaki District Council.

### Further Information

#### Contact the:

Regulatory Services Projects Officer, Ms Adrienne Cook  
Regulatory Services Manager, Mr Jim Single  
South Taranaki District Council 06 278 0555

#### Review of Policy

This policy shall be reviewed on a 5 year cycle to ensure policies are effective and efficient at achieving the objectives.

#### Relevant Legislation

- Fencing of Swimming Pools Act 1987
- The Building Act 2004

#### Other supporting standards and codes

- NZS 8500:2006: Safety barriers and Fences around swimming pools, spas and hot tubs
- The Building Code

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### **Schedule one**

#### **Exempted Pools under the Act**

- Any pool that has no part of the top of its side walls less than 1.2 metres above the adjacent ground level. This includes any permanent projection or object standing on the ground outside and within 1.2 metres of the walls, where the outside surface of the side walls is constructed so as to inhibit climbing and any ladder or other means to access the pool can be readily removed or rendered inoperable when the pool is not in use.
- any excavation, structure, or product, in which the maximum depth of water does not exceed 400mm.
- any excavation, structure or product –
  - i) that is not used in association with any house, home unit, apartment building, school, hospital, hotel, motel, camping ground, or other similar premises; and
  - ii) that is not modified for use, or intended to be used, for swimming, wading, paddling or bathing.
- any pool intended to be used for wading or paddling in any place that is under the administration of a local authority.
- any pool that is wholly enclosed within a building that is used principally for a purpose or purposes not related to the use of the pool.
- any pool where –
  - i) persons are employed and present to provide supervision of the pool whenever the pool is available for use; and
  - ii) access to the pool is effectively prevented by a fence that complies with the Act or by locked gates or doors whenever the pool is not intended to be available for use.

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### Schedule two

#### Prescribed measurements

##### Fences

- are required to be 1,200 mm above the ground on the outside of the fence.
- are required to be at least 1.2 meters above any permanent projection from or object permanently placed on the ground outside and within 1.2 meters of the fence.

##### Ground clearance

- Any clearance between the bottom of the fence and ground level must not exceed 100mm.

##### Materials

- shall be of durable nature and shall be erected so as to inhibit any child under the age of six years from climbing over or crawling under the fence from the outside.
- except where the fence is horizontally close-boarded or is made of perforated material, netting or mesh, the spacing between adjacent vertical pales, panels or other posts shall not exceed 100 mm at any point.
- fencing supports, rails, rods and wires, that are not vertical, and all bracing that is not vertical, shall be inaccessible for use for climbing from the outside (except if the distance between any two of them at any point is at least 900 mm and there is no other support, rail, rod, wire or bracing (other than a vertical rail) between the same two at any point).
- if perforated material, netting or mesh is used, the no opening in that material shall have a dimension greater than 50 mm.
- if perforated material, netting or mesh is used then it shall be firmly attached at both top and bottom to a rail, pipe or similar firm structure, so that the fence cannot be crossed by children under the age of six years.

##### Gates and doors

- every gate or door shall be built to comply with the Act.
- it cannot open inwards towards the immediate pool area.
- it is clear of any obstruction that could hold the gate or door open and no other means of holding the gate or door open is provided.
- when lifted up or pulled down the gate or door does not release the latching device, come off its hinges or provide a ground clearance greater than 100 mm.

##### Operation of gates and doors

- every gate or door shall be fitted with a latching device.
- if the latching device is only accessible from the outside of the fence only by reaching over the fence, gate or door through a hole, then the lowest point the hole shall be is at least 1.2 metres above the ground on the outside of the fence.
- If the latching device is accessible from the outside of the fence, gate or door, the latching device shall be at least 1.5 metres above the ground on the outside of the fence.
- every gate or door shall be fitted with a device that will automatically return the gate or door to the closed position and operate the latching device when the gate or door is stationary and 150 mm from the closed and secured position.

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### **Doors in walls of buildings**

- Where any building forms part of a fence and the pool is not contained within the building, any door that gives access to the immediate pool area need not comply with requirements for gates and doors – if an inspector deems it to be appropriate. The door is required to be fixed with a locking device, that when operated correctly prevents the door from being readily opened by children under six years of age.

### **Barriers defined for exemptions\***

As defined under the Building code every barrier must:

- Be continuous
- Be of appropriate height
- Constructed with adequate rigidity
- Be of adequate strength to withstand the possible impact of people, and where appropriate the static pressure of people pushing it
- Be constructed to prevent people from falling through it; and
- In the case of a swimming pool, restrict the access of children under six years of age to the pool or immediate pool area.

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### **Schedule Three**

#### **Special Exemptions for Above-ground Spas and Hot tubs (NZS8500:2006 section 3.10)**

Above ground spas and hot tubs shall meet all of the following:

- (a) The top of the spa pool or hot tub shall be positioned with the entire top surface not less than 760 mm above the surrounding ground or deck;
- (b) The cover shall be lockable and shall be kept locked with the spa pool or hot tub is not being used or supervised. A locking device shall contain a mechanical locking mechanism or a self-locking mechanism in addition to latching shut;
- (c) The locks shall not be able to be readily opened or released by a child of up to the age of six years;
- (d) When locked the cover shall be fitted so that if lifted it does not release the locking device or provide a clearance greater than 100 mm;
- (e) The cover shall be made of material that if walked on cannot collapse and can withstand the weight of at least 20 kg to ensure that it will more than take the weight of a child up to six years of age;
- (f) The cover shall be constructed of material that meets ASTM F1346-91 to allow easy movement on and off the spa pool or hot tub;
- (g) The cover shall be constructed with a taper from the centre hinge to the outside edge of the cover so that water will not pond on top of it;
- (h) The cover shall have an evenly spaced mechanical locking device as required in (b) which shall be positioned to ensure the cover cannot be lifted more than 100 mm by a child up to six years of age, and ensure that the cover is fixed securely to the spa pool or hot tub;
- (i) The cover and locks shall be maintained at all times in a good state of repair;
- (j) Warning stickers/signs shall be placed on the cover to advise that it shall be locked in place when the spa pool or hot tub is not being used or supervised;
- (k) Removable steps, movable furniture, or other objects that can assist a young child to climb onto the cover, shall be stowed/stored away at least 1,200 mm from the side of the spa pool or hot tub.

#### **Non compliant above-ground spa pools and hot tubs**

Failure to comply with NZS8500:2006 Section 3.10 will require fence to encompass the pool area which complies with the requirements of the Fencing of Swimming Pools Act 1987.