

EXPLANATORY MEMORANDUM FENCES AND FENCING BY-LAWS

1. Background

According to section 20(1)(b)(iv) of the Health Act, the Council must prevent the occurrence of any condition which will or could be harmful or dangerous to the health of any person within its district. The Council, in particular, need to protect children under the age of 4 years from health hazards caused by water contained in wells, holes, pits, reservoirs, ponds, swimming pools or water holes, or by excavations on premises. These By-laws aim to do just that.

Section 5. Fences

This section provides that a person must obtain the consent of the Council if he or she erects (including the alteration thereof or addition thereto) a fence which is more than 2 metres in height, or if he or she erects an electrified fence, or a fence with barbed wire or spikes or other sharp or pointed protrusions. The Council may grant consent subject to conditions and requirements and specifications. The Council may too require of a person to erect a fence. A number of offences are stipulated.

Fences around swimming pools

The fencing of swimming pools is strictly regulated by the SABS Codes.

Fencing of excavations, pits, hole, reservoirs and ponds

A person who has a well, hole, pit, reservoir, pond or excavation (on premises) which contains or is capable of containing water to a depth of more than 300 mm, must ensure that such well, hole, etc is fenced in according to the specifications set out. (Section 7)

Enforcement of By-laws

The provisions of these By-laws are enforced by means of a notice of compliance and a demolition order. The Council may order a person, through the notice of compliance, to remedy a situation or to do something (Section 10). Should a person fail to do so, the Council may remedy the situation or may demolish the fence (Section 12). The Council may of course recover the costs if it remedies the situation (Section 11). The Council must appoint an official to implement the provisions of these By-laws (Section 15).