

## SWIMMING POOL GUIDELINES

The purpose of this Information is to assist the Kaipara District Council and pool owners to guard young children from the potential of drowning or injury in swimming or spa pools.

### What is a pool?

A pool is described as being any excavation, structure or product that is used or is capable of being used for swimming, wading, paddling or bathing and includes spa pools.

### What exactly is the law?

The Fencing of Swimming Pools Act 1987 (FSWP) was introduced in 1987, making territorial local authorities responsible for ensuring that pool owners comply with the legislation.

A schedule in the Act sets out the requirements for fences.

The Fencing of Swimming Pools Act establishes that a compliant fence meets the performance requirements of the Building Code in force under the Building Act 2004.

Case law based on relevant court cases; regularly improve the way the law is applied. Legal determinations made under the Building Act at times apply to pool fencing.

Details of determinations can be accessed via the following website: <http://www.dbh.govt.nz/determinations-view-past-determinations>.

Anyone intending to install a new pool, or new pool fence, must apply for and uplift a building consent prior to commencing the work.

The Fencing of Swimming Pools Act requires pool owners to notify the Council of the existence of a pool.

An application for a Building Consent is an acceptable way of notifying the Council of the installation of a new pool or fence.

### Don't become complacent!

Even when your pool has a complying fence ~ continually safeguard your pool area by:

- Not propping open gates or doors or keeping them off their latches.
- Fencing off any door that is not self-closing and self-latching.
- Making sure that children don't put or leave bikes, trikes, ride-ons etc against the fence.
- Ensure signage is on doors.
- Not placing objects such as flowerpots, deck chairs, firewood, boxes, wheelbarrows etc against either side of the fence.
- Ensure gates self-close and latch.

### The immediate pool area is to be fenced

Immediate pool area means 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 out in conjunction with the use of the pool.

The immediate pool area must not include the whole of the outdoor living space (your boundary fence alone is not acceptable) and/or thoroughfares.

You should only enter the pool area for activities related to the use of the pool. Also the pool fence should prevent young children moving directly to the pool from the house, other buildings, garden paths or areas of the property normally open to them. Activities such as vegetable gardens, domestic clothes lines, children's play area and amenities and access to them via the pool will be excluded from the pool area.



## What fencing is required?

A fence that complies with the Fencing of Swimming Pools Act 1987 that prevents any child up to six years of age from climbing over, under or through it.

## What types of fence comply?

A fence that complies with the Fencing of Swimming Pools Act 1987; if all materials and components shall be of a durable nature and the fence shall be a continuous barrier of appropriate height, rigidity, and strength to prevent any child up to six years of age from climbing over, under, or through the fence from the outside.

- The fence shall extend 1.2 metres above the ground, or any object within 1.2 metres of the fence that could be used to climb the fence. Climbable objects inside the pool fence need to be a minimum of 300mm from the fence.

Ensure trees and vegetation does not assist climbing of a pool fence or restrict gates or doors from closing.

- There shall be no gap between vertical components of the fence greater than 100mm.
- There shall be no gap under the fence greater than 100mm.
- Where the fence is constructed of perforated material, trellis, netting or mesh, gaps must be no greater than 10mm for a fence up to 1.8 metres high.

Note: This measurement is on the diagonal or widest part of the gap. Fences 1.8 or higher metres may have 50mm gap.

For a fence up to 1.8m tall the gaps are to be no more than 10mm.

For a fence 1.8m tall or higher the gaps can be up to 50mm

All gaps should be less than 100mm, ie to ground, rails, gate, rest of fence etc.

- Horizontal boarded fences have all the gaps filled, and
- All support rails, bracing etc that are not vertical are made inaccessible for climbing from the outside, or
- The support rails are on the outside with the distance between any two of them being at least 900mm, and
- The fence must surround the immediate pool area.
- Any horizontal boarded fences with gaps greater than 10mm must have the gaps filled or covered.
- All support rails, rods, or wires that are not vertical shall be inaccessible for use for climbing from the outside except if positioned horizontally and are spaced a minimum 900mm apart.

For a fence up to 1.8m tall the gaps are to be no more than 10mm.

For a fence 1.8m tall or higher the gaps can be up to 50mm

All gaps should be less than 100mm, ie to ground, rails, gate, rest of fence etc.

## Can a paling fence be used?

A close-boarded paling fence (boundary fence) may be used as a pool fence provided any rails, supports and bracing on the outside are vertical so children cannot climb them.

This means horizontal rails must be a minimum of 900mm apart, which is not usually the case in most standard fences. They could be altered to make them inaccessible to climbing.

## What about gates and doors?

Gates must:

- Not open into the pool area.
- Be fitted with a self-latching device and a self-closing device capable of closing the gate at least 150mm ajar.
- If placed on the pool side, must only be accessible by reaching over the top of the fence, gate or through a hole at least 1.2 metres above the ground from the outside.
- If on the outside of the gate, must be at least 1.5 metres above the ground.
- Be clear of anything that could hold them open.
- Not lift off their hinges or unlatch if pulled down or lifted up.
- Hinges that could be used as a foot hold must be 900mm apart or fitted with slip device or cap.

Hinged doors must:

- Not open into the pool area.
- Be fitted with a self-latching and a self-closing device capable of closing the door from an opening distance of at least 150mm.
- Have a self-closing latch at least 1.5 metres above floor level.
- Have a Council supplied self-adhesive notice affixed to all pool access doors.
- Be clear of anything that could hold them open.
- Double gates or doors are required to independently self-close, self-latching at 1.5 metres or have one side of the door/gate permanently fixed shut. Padlocks, keyed tower-bolts and tower-bolts are not acceptable to secure the second gate/door.

Ranch sliders and sliding/folding doors must:

- Be fenced off from the pool area.
- If deemed to be in the immediate pool area by a Council Swimming Pool Inspector, must self-close and self-latch or have a Special Exemption.
- These doors must remain closed and locked when the pool is not in use.

Windows

- Any opening windows lower than 1.2 metres from floor level must be restricted to open no more than 100mm.
- You must also restrict the window if you have any climbing aids placed against the window, such as furniture and including a window ledge that reduces the required height.

## Pools/Spas must remain empty until they have an approved complying fence installed.

### Are any pools exempt from fencing?

There are basically four types of pools that the Fencing of Swimming Pools Act does not apply to:

1. An above ground pool where the top of the side wall is no less than 1.2 metres above the ground or any permanent object (removable ladder or steps).
2. A structure or product where the maximum depth of water does not exceed 400mm.
3. A pool that is wholly enclosed within a building that is principally used for purposes other than the use of the pool. Any exemption is based on the current interpretation of Section 5(e) of the Act. Please note that should the Courts or determinations from the Department of Building & Housing subsequently provide greater clarity in relation to the interpretation, the status of the pool may change.
4. A pool where people are employed to provide supervision while the pool is available for use and the pool is behind locked gates at other times.

## Special exemptions section 6 of the Fencing of Swimming Pools Act 1987

In special circumstances the Council may grant an exemption from some or all of the requirements of the Fencing of Swimming Pools Act 1987.

### How to avoid enforcement action

Every swimming or spa pool owner is responsible under the Act for ensuring that all of the immediate pool area is fenced in a way that complies.

This means that the fence must be maintained in a way that complies with the Act and if for whatever reason, it does not comply, the pool must remain empty until the pool fencing requirements have been met.

### Owner's checklist

The height of the fence and gate is not less than 1.2 metres.
There is no gap or space in the fence greater than 100mm.
The fence rails are on the pool side.
The rails are on the outside but are more than 900mm apart or they are made unclimbable
The fence is netting, mesh, or trellis, with no opening greater than 10mm for a fence up to 1.8 metres high.
All gates and doors into the pool enclosure do not open towards the pool area and comply with the requirements of the Fencing of Swimming Pool Act.
The gate latch is on the inside not accessible from the outside through the gate; or is 1.5 metres above the ground.
The pool is not fenced but has sides 1.2 metres high with no climbable places and the ladder or steps are removed when the pool is not in use.
The filter backwash and pool discharges to the sewer.
A backflow prevention system is installed.
The Council has a record of the pool and fence.
The pool fence has had a recent inspection.
NOTE: This is a checklist for your convenience, but does not cover every situation.