

# POOL

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## CITY OF DURBAN POOL BY-LAWS

### ARRANGEMENT OF BY-LAWS

|     |                          |
|-----|--------------------------|
| 1.  | Definitions              |
| 1A. | Nondiscrimination        |
| 2.  | Times of Opening         |
| 3.  | Application of By-laws   |
| 4.  | Admission to Pools       |
| 5.  | Exclusive Use            |
| 6.  | Pool Supervisors         |
| 7.  | Coaching and Instruction |
| 8.  | Signs                    |
| 9.  | Offences                 |
| 10. | Penalties                |

**1. Definitions.**—In these By-laws, unless inconsistent with the context—

“**authorised employee**” means an employee of the Council authorised by the Director either generally or specifically to exercise powers and perform functions for the purposes of these By-laws;

“**booth**” means any portion of the changerooms at a pool intended for the use of an individual bather for the purpose of dressing and undressing;

“**Council**” means the City Council of the City of Durban;

“**Director**” means the person appointed to the post of Director of the Council’s Parks, Recreation and Beaches Department and includes any person appointed as a deputy to such person and any person acting in either capacity;

“**district pool**” means a swimming-pool other than the Rachel Finlayson Pool and the King’s Park Pool;

“**Manager**” means the officer of the Council charged with the management and control of pools under these By-laws and includes his deputy and any other officer authorised by the Director to act on behalf of such officer;

“**pool**” means a swimming or paddling pool provided by the Council for use by the public and includes the premises on which such pool is situated together with the buildings and other structures on such premises;

“**pool supervisor**” means the officer of the Council charged with the control of, and supervision of activities, at a pool;

“**prescribed charge**” or “**prescribed charges**” means the charge or charges prescribed by the Council by resolution from time to time;

**“professional swimming coach”** means a person who gives swimming instructions for gain;

**“swimming instructor”** means a person who gives swimming instruction otherwise than for gain and to whom written permission has been given by the Director in terms of section 7 (1).

**1A Nondiscrimination.**—(1) Subject to the provision of subsection (2) hereof, no provision of these By-laws shall be applied so as to discriminate between persons on the grounds of race, religion or gender nor shall it be so construed as to have the effect of authorising such discrimination.

(2) Notwithstanding the provisions of subsection (1) hereof, discrimination on the grounds of gender may expressly be authorised in terms of any provision of these By-laws which prescribes the wearing of appropriate apparel in a public place or imposes a restriction upon the entry of persons into public ablution, toilet and changeroom facilities or prescribes different standards for such facilities.

[R. 1A inserted by MN 43 of 1992.]

**2. Times of Opening.**—(1) The days on which and the times during which a pool shall be open to the public shall be as determined by the Director from time to time.

(2) Swimming and bathing in a pool shall cease a half hour before the time the pool is to be closed and all persons shall then leave the water and prepare to leave the pool premises.

(3) Any person who contravenes subsection (2) or who fails or refuses to leave the pool premises promptly at the closing time shall be guilty of an offence.

(4) This section shall not apply to paddling pools.

**3. Application of By-laws.**—These By-laws shall apply to all pools provided by the Council, including children’s paddling pool at the beachfront.

**4. Admission to Pools.**—(1) Whenever a prescribed charge is payable for admission to a pool no member of the public shall enter such pool unless he has paid the prescribed charge and is in possession of proof of such payment which proof he shall produce to the attendant upon demand and before admission.

(2) The Director, a pool supervisor and an authorised employee shall have the right to refuse admission to a pool either in respect of the public generally or in respect of one or more persons or class of persons whenever it is in the public interest or in the interests of health or safety to do so or whenever circumstances make it necessary or expedient to do so and any person in respect of whom permission has been refused who enters or attempts to enter a pool shall be guilty of an offence.

(3) No child under the age of ten shall be admitted to a district pool nor shall he remain therein unless he is accompanied by and is in the care at all times of a person of sixteen years of age and over.

(4) A person who wishes to leave the Rachel Finlayson Pool temporarily for the purpose of proceeding to the beach shall before doing so obtain from the attendant on duty a pass out which shall be returned to the attendant on return to the pool and any person who fails to obtain such pass out or to return it may be denied re-admission to such pool.

**5. Exclusive Use.**—(1) The Director may on application and upon payment of the prescribed charge grant the exclusive use of the whole or part of a swimming-pool to a swimming club or other person or body during such periods as he may determine provided that such use is for the purpose of organised swimming or aquatic sports.

(2) During the period for which the exclusive use of the whole or part of a pool has been granted in terms of subsection (1) that pool or part shall be closed to the public.

**6. Pool Supervisors.**—(1) A pool supervisor allocated to a pool by the Director shall be responsible for the management of that pool and shall have such powers, duties and functions as are assigned to him, including the power—

- (a) to give orders to persons admitted to the pool as to their conduct thereat;
- (b) to permit or prohibit the use of diving boards and other equipment.

**7. Coaching and Instruction.**—(1) No person shall give instruction as a swimming instructor in or within the precincts of any pool except with the prior written permission of the Director, and in compliance with such conditions as he may deem fit to impose.

(2) A swimming instructor to whom written permission has been given in terms of subsection (1) above shall not instruct more than five pupils at any one time.

(3) No professional swimming coach, whether in the capacity of coach to a swimming club or otherwise, shall carry on his occupation as a coach at a pool except with the prior written permission of the Director, which permission may be granted in respect of such pool as may be nominated by the latter and upon such conditions as he may deem fit to impose and any person to whom such permission has been granted shall pay monthly in advance the prescribed charge.

(4) Permission granted in terms of subsection (3) shall in addition to any conditions that may be imposed by the Director be subject to the following—

- (a) not more than three swimming lanes, to be designated from time to time by the pool supervisor, shall be allocated to any one coach;
- (b) coaching shall be restricted in the case of the Rachel Finlayson and a district pool to the hours of 6 a.m. to 9 a.m. on Mondays to Saturdays inclusive and 5 p.m. to 9 p.m. on Mondays to Fridays inclusive;
- (c) such permission shall not be granted to more than two coaches in respect of any district pool or to more than three coaches in respect of the Rachel Finlayson Pool; provided that where the use of the whole or part of a pool has been granted in terms of section 5 (1) to two swimming clubs such permission may be granted to one coach in respect of each such club solely in each case for the purpose of acting as coach to the club concerned and no other coach may be granted permission in respect of such pool;
- (d) no coaching shall take place in terms of any such permission at any time in respect of which the exclusive use of the whole or part of the pool concerned is granted in terms of these By-laws to any other person or club, and the coach concerned shall not be entitled to a credit or refund of the prescribed charge paid by him in respect of the coaching time of which he has been so deprived;
- (e) a professional swimming coach shall not be entitled to a credit or refund in respect of any coaching time for which he has paid the prescribed charge but which has not been utilised by him;
- (f) the liability of a coach for the prescribed charge shall not extend beyond the end of a month during which he notifies the Director of Parks, Recreation and Beaches, in writing to the effect that he no longer requires the coaching facilities accorded him in terms of this section and such notification shall be deemed to take effect at the end of such month.

(5) Any permission granted in terms of subsections (1) and (3) may be withdrawn at any time by the Director, Parks, Recreation and Beaches upon one calendar month's

notice to the grantee and may be cancelled forthwith by the Director in the event of the grantee being convicted of any contravention of any provision of these By-laws or of any other offence whatsoever committed at any pool or committing any breach of the terms of such permission.

(6) A professional swimming coach to whom permission has been granted in terms of subsection (3) above and students (including their parents/guardians) under the supervision of the professional swimming coach shall be exempt from the payment of the prescribed charge for admission to the pool for the duration of the training session only.

[Sub-r. (6) substituted by MN 16 of 1999.]

(7) Permission in terms of subsection (3) shall be required by a professional swimming coach and the prescribed charge shall be payable by him even though no prescribed charge is payable for admission to a pool at the time of coaching.

**8. Signs.**—(1) Signs for the purpose of conveying that an act, activity or thing is permitted or prohibited under any provision of these By-laws shall be displayed in accordance with the provisions of this section.

(2) A sign referred to in subsection (1) may take the form of a pictograph and where any such sign conveys a prohibition, it shall be bisected by a red diagonal.

(3) When two or more signs or notices are displayed in conjunction with each other for the purpose of defining a portion of a pool or an area within or wherefrom a particular act, activity or thing is either prohibited or permitted, they shall be so displayed as to define the limits of such portion, whether by means of arrows or otherwise.

(4) Signs and notices may for any purpose related to these By-laws be displayed either by the Manager or the pool supervisor or by another employee of the Council authorised by either of such officers.

(5) No person other than a person referred to in subsection (4) shall move any sign or notice displayed or erected for the purpose of these By-laws and no person shall deface, obscure or willfully or negligently damage or otherwise interfere with any such sign or notice.

**9. Offences.**—A person commits an offence if at any pool he—

- (a) disobeys or fails to carry out any order or instruction of a pool supervisor;
- (b) enters or attempts to enter the pool—
  - (i) when it is closed;
  - (ii) without first paying the prescribed charge when such charge is payable;
  - (iii) except through the entrance provided;
  - (iv) in advance of a person who by reason of prior payment is entitled to prior admission;
  - (v) for which the prescribed charge for admission is higher than the charge paid by him;
- (c) wilfully or negligently damages or injures or unlawfully removes or displaces or in any way defaces or interferes with any property of the Council or under its control;
- (d) wilfully or negligently breaks, damages, defaces or interferes with any coin or token operated clothes locker or lock forming part thereof or opens or attempts to open such locker save by means of the insertion of the appropriate coin or token and the use of the key supplied for the purpose, or attempts to do any of the aforesaid things;

- (e) without the prior written consent of the Director, removes any material or thing the property of or under the control of the Council;
- (f) mounts, climbs upon, sits upon, hangs onto or in any way interferes with any building or structure unless it is designed for that purpose;
- (g) deposits or discharges anything liable to be a nuisance or a danger to health or safety or performs any act which is so liable;
- (h) leaves any object, parcel or thing unattended except in a locker designed for the purpose;
- (i) displays any advertisement except with the prior written consent of the Director and in accordance with such conditions as may be imposed by him upon the grant of such consent;
- (j) distributes by himself or through others and whether by hand or otherwise any hand-bill, pamphlet or other printed or written matter or places any such matter on any structure or affixes it thereto and in any legal proceedings relating to such act it shall be presumed until the contrary is proved that the matter was distributed, placed or affixed by or at the instance of the person sponsoring, promoting, organising or in control of the subject matter thereof or by or at the instance of the person who is reflected as being such person or the author of the matter, as the case may be;
- (k) abandons, drops, spills, deposits, throws or in any other way disposes of any refuse or rubbish or other discarded or waste material or thing whether liquid or solid, except in a receptacle designed for the disposal thereof which is provided by or on behalf of the Council;
- (l) holds, convenes or organises any entertainment, display, performance, procession, public meeting, recreation or event except with the prior written consent of the Director and in accordance with such conditions as may be imposed by him upon the grant of such consent;
- (m) addresses any gathering of persons or seeks by any means and for any purpose to attract or convene a gathering of persons except with the prior written consent of the Director in accordance with such conditions as may be imposed by him upon the grant of such consent;
- (n) offers or exposes or causes to be offered or exposed for sale any article, material or service or canvasses or touts for business or carries on any trade, business, calling or other activity not expressly permitted by these By-laws, except with the prior written consent of the Director and in accordance with such conditions as may be imposed by him upon the grant of such consent;
- (o) except in a booth, toilet or changeroom is not so dressed that, if a female, her nipples are concealed from view and, if a male or female, his or her private parts are concealed from view, in each case by an article of opaque clothing;
- (p) except in a booth, toilet or changeroom removes or partially removes or displaces or wears any article of clothing, or bathing apparel in such a manner or to such an extent that, if a female, either of or both of her nipples is or are exposed to view, and, if a male or female, his or her private parts are partially or wholly exposed to view;
- (q) enters the water while wearing any article of clothing other than a swimming costume designed for the purpose;
- (r) after using or after quitting any booth, loiters or remains without lawful cause or reasonable excuse in any passage leading to or from any booth;

- (s) enters or attempts to enter any booth which is already occupied by another person without the consent of such person or otherwise wilfully intrudes upon the privacy of any other person using or occupying a booth;
- (t) being a male person above the age of seven years enters any booth or other facility during such time as it is appropriated solely for the use of members of the female sex;
- (u) being a female person above the age of seven years enters any booth or other facility during such time as it is appropriated solely for the use of members of the male sex;
- (v) loiters in or in the vicinity of a booth, changeroom, shower or toilet, or in proximity to the entrance to or exit from a pool;
- (w) occupies or uses any booth or other facility at any one time for a period exceeding one hour;
- (x) introduces or has in his possession any glass, pottery or porcelain or any object made of or containing such material, other than a pair of spectacles or swimming goggles;
- (y) makes or lights a fire whether for cooking food or otherwise except with a device provided by the Council or approved by the Director for the purpose and in accordance with conditions imposed by the Director when granting his approval;
- (z) discharges a firework or rocket except with the prior written consent of the Director;
- (aa) is in possession of or discharges or uses a firearm, air or spring gun, gas pistol, catapult or bow and arrow or other dangerous weapon;
- (bb) is present whilst suffering from any cutaneous disease which is infectious or contagious;
- (cc) wilfully or negligently does any act or uses any device or thing which causes discomfort to or obstructs any other person or causes or is likely to cause a nuisance or a danger to health or safety;
- (dd) expectorates or relieves himself by performing a natural bodily function, except in a place provided by the Council for the purpose;
- (ee) fights, argues, uses any offensive or indecent language or performs any indecent or offensive act or any act so as to or to be likely to disturb or cause a breach of the peace or to interfere with the quiet enjoyment by any other person of the pool, or its facilities;
- (ff) wilfully and without lawful cause stops, molests, hinders, importunes, obstructs, jostles, abuses or in any other way interferes with any other person or his property;
- (gg) smokes or carries a lighted cigar, cigarette or pipe in any booth or in disregard of any notice prohibiting smoking;
- (hh) leaves unattended any object or material on a bench or other seating accommodation provided by the Council for the use of the public;
- (ii) calls for help when help is not needed or raises a false alarm or causes the same to be raised;
- (jj) shouts, sings, dances or makes any noise by any means whatsoever or operates, plays, uses or activates any musical instrument, radio, gramophone, television set, loudspeaker, sound amplifier or any other device which produces, reproduces or amplifies sound, so as to, or in the manner or to a degree which is calculated to disturb the peace or to

- interfere with the quiet enjoyment by other persons of the pool or so as to cause a nuisance to any person;
- (kk) without the prior written consent of the Director takes photographs or makes portraits or other life-like impressions for gain;
  - (ll) begs for money or asks for other favours whether by word, posture, demeanour, or otherwise;
  - (mm) gambles or plays any game for gain, whether monetary or otherwise, and whether with cards, dice coin or instrument of chance or otherwise;
  - (nn) is under the influence of intoxicating liquor or a drug having a narcotic effect, or imbibes or injects such liquor or drug;
  - (oo) rides a bicycle or uses roller skates or a board or any similar device to which rollers or wheels are attached and which is commonly known as a skate board or causes or permits the same to be used except within an area expressly set aside for that purpose by the Council;
  - (pp) plays any game or indulges in any pastime which is likely to cause nuisance, annoyance, injury or discomfort to bathers, spectators or any other persons after he has been warned by the pool supervisor or an authorised employee not to play such game or indulge in such pastime;
  - (qq) throws any object or any matter, whether solid or liquid, into the water or allows it to drop in;
  - (rr) pushes, throws or causes any person to fall into the water;
  - (ss) dives or jumps into the water at a swimming pool -
    - (i) from a place other than the side of the pool or a diving board or platform;
    - (ii) at a point at which the depth of the water is less than 1,8m;
    - (iii) close to another person;
  - (tt) enters or is upon a diving board or platform while another person is already on it except with the permission of the pool supervisor;
  - (uu) performs acts on a diving board or platform which are not consistent with its use for the purpose of diving;
  - (vv) uses any soap or similar detergent substance;
  - (ww) washes any article of clothing;
  - (xx) being a person above the age of twelve years enters upon, is on or uses a slide.

**10. Penalties.**—Any person who—

- (a) contravenes any provision of these By-laws, or
- (b) contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these By-laws;
- (c) fails to comply with the terms of any notice served on him or with any notice or sign displayed in terms of these By-laws, or
- (d) fails to obey an instruction or direction given to him in terms of these By-laws,

shall be guilty of an offence and liable, upon conviction, to the maximum penalty prescribed for the offence by section 266 (7) (a) of the Local Authorities Ordinance, 1974 (Ordinance 25 of 1974).

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