



Ricardo

PARKS & RECREATION BOARD



December 16, 2008



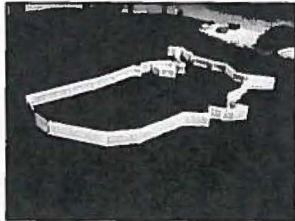
Austin
Parks and
Recreation

Item # 3

Texas Biennial Temporary Outdoor Artwork Art in Public Places Site Map



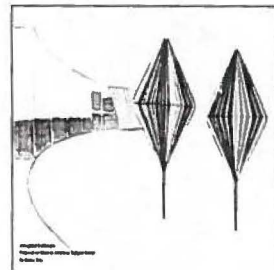
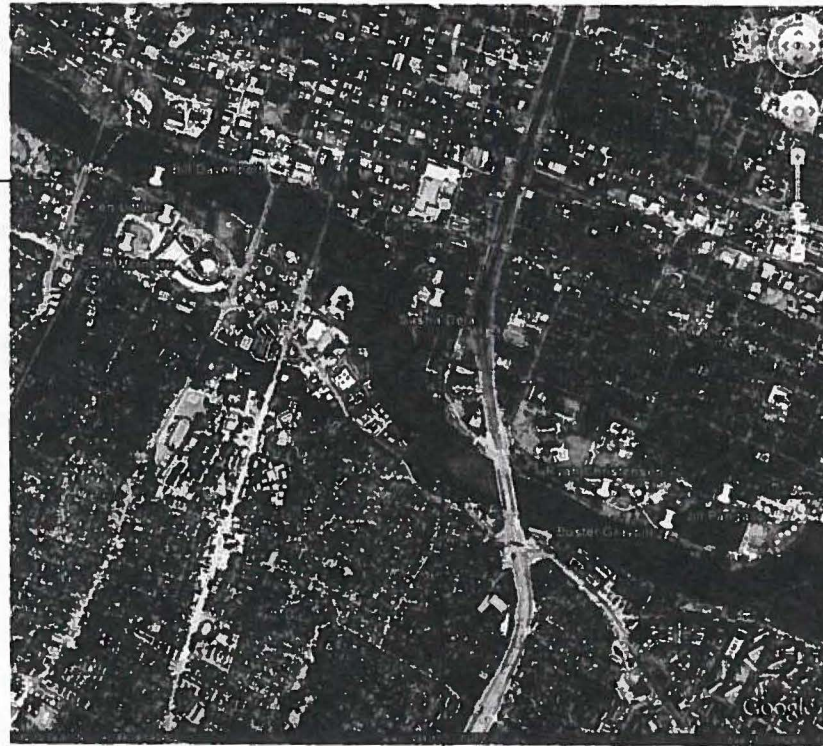
Bill Davenport
West end of Auditorium Shores



Ken Little
East side of Butler Park in grassy area between Doug Sahm Hill and Palmer Event Center



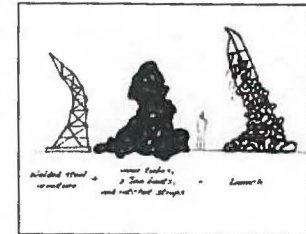
Colin McIntyre
Small round-about mound in Butler Park



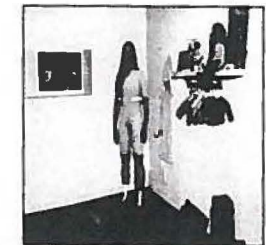
Sasha Dela
Light poles at MACC



Ryah Christensen
Grassy spot just north of the east side hike and bike trail (by Lisa's Memorial), south of Nash Hernandez Road.



Buster Graybill
Seldom-used boat launch area on east side hike and bike trail, just east of Comal and south of Nash Hernandez Road.



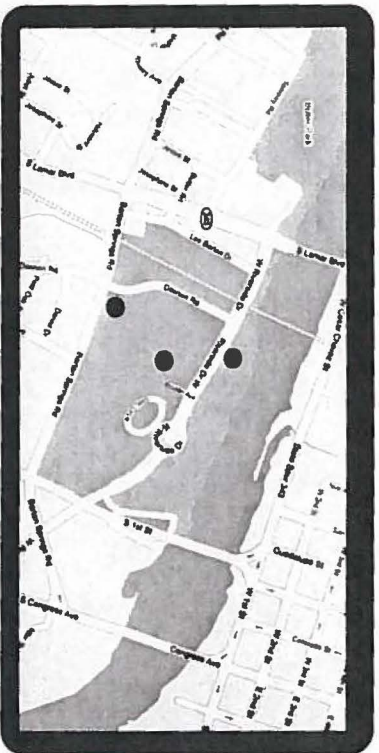
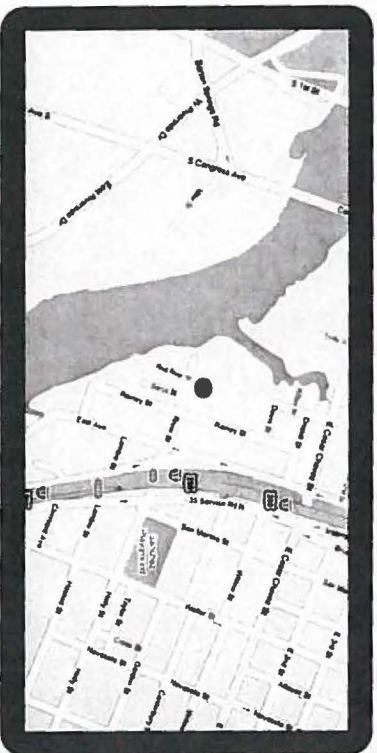
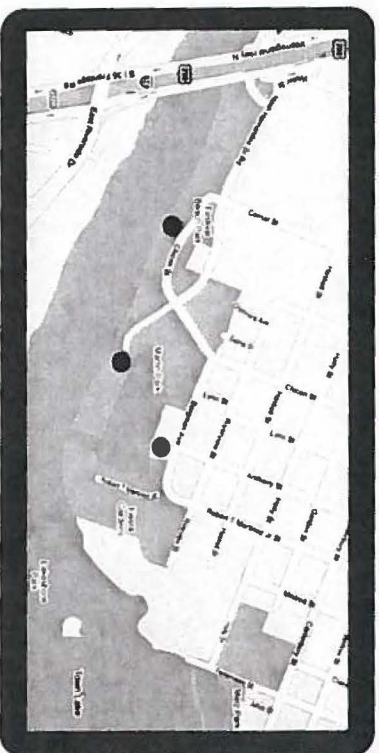
Jill Pangallo
Courtyard/Theatre at Fiesta Gardens



1

2

3



Texas Biennial Temporary Outdoor Artwork Art in Public Places Detail Maps

Item # 5

BYLAWS OF THE Parks and Recreation Board

ARTICLE 1. NAME.

The name of the board is Parks and Recreation Board

ARTICLE 2. PURPOSE AND DUTIES.

The purpose of the board is to advise the city council and city manager regarding:

- (1) the acquisition, development, improvement, equipment, and maintenance of city parks and public playgrounds;
- (2) the future development of the city parks, playgrounds, and recreational facilities, and the purchase of additional land for those purposes; and
- (3) improvements in the maintenance, operation, and general welfare of the city's parks, playgrounds, and recreational facilities and their use by the public.

The board shall outline a general plan of development for new parks and playgrounds, including landscaping, roads, trails, buildings and equipment. The board shall submit the plan to the Planning Commission and the city manager for detail development, and the city manager shall then submit the plan to the city council for approval.

The board shall promote close cooperation between the City and all private citizens, institutions, and agencies interested in or conducting recreational activities, so that all recreational resources within the City may be coordinated to secure the greatest public welfare.

The board shall perform other duties as prescribed by the City Code or as directed by the city council.

ARTICLE 3. MEMBERSHIP.

- (A) The board is composed of seven members appointed by the city council.
- (B) A member serves at the pleasure of the city council.
- (C) Board members serve for a term of three years beginning August 1st on the year of appointment.
- (D) An individual board member may not act in an official capacity except through the action of the board.
- (E) A board member who is absent for three consecutive regular meetings or one-third of all regular meetings in a twelve month time period automatically vacates the member's

position. This does not apply to an absence due to illness or injury if the member notifies the staff liaison of the reason for the absence no later than the next meeting of the board.

- (F) At each meeting, each board member shall sign an attendance sheet which indicates that the member does not have a conflict of interest with any item on that agenda, or identifies each agenda item on which the member has a conflict of interest.
- (G) A member who seeks to resign from the board shall submit a written resignation to the chair of the board, the staff liaison, or the city clerk's office. If possible, the resignation should allow for a thirty day notice so the city council can appoint a replacement.

ARTICLE 4. OFFICERS.

- (A) The officers of the board shall consist of a chair and a vice-chair.
- (B) Officers shall be elected annually by a majority vote of the board at the first regular meeting after August 1st. **In the event a current officer becomes ineligible to serve as an officer, the board may hold an emergency election as needed.**
- (C) The term of office shall be one year, beginning September 1 and ending August 31. An officer may continue to serve until a successor is elected. An officer may be reelected for not more than one additional one-year term.
- (D) A member may not hold more than one office at a time.

ARTICLE 5. DUTIES OF OFFICERS.

- (A) The chair shall preside at board meetings, appoint all committees, and represent the board at ceremonial functions.
- (B) In the absence of the chair, the vice-chair shall perform all duties of the chair.

ARTICLE 6. AGENDAS.

- (A) Two or more board members may place an item on the agenda by oral or written request to the staff liaison at least five days before the meeting.
- (B) The staff liaison shall prepare and distribute the agenda to the board members not less than 72 hours before the meeting.
- (C) Posting of the agenda must comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).

ARTICLE 7. MEETINGS.

- (A) The board meetings shall comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).
- (B) Board meetings shall be governed by Robert's Rules of Order.
- (C) The board may not conduct a closed meeting without the approval of the city attorney.
- (D) The regular meeting of the board shall be held on the fourth Tuesday of each month at 6:00 p.m. at the City Hall, 301 W. 2nd Street, in the Boards and Commissions Conference Room, unless otherwise determined by the board. If the regular meeting day is a holiday, the meeting will be held on the previous Tuesday, a week prior to the regular meeting.
- (E) The chair may call a special meeting, and the chair shall call a special meeting if requested by three or more members. The call shall state the purpose of the meeting. A notice of a special meeting must be in writing and sent to all members at least three days before the meeting.
- (F) Four members constitute a quorum.
- (G) If a quorum for a meeting does not convene within one-half hour of the posted time for the meeting, then the meeting may not be held.
- (H) To be effective, a board action must be adopted by affirmative vote of not less than the four members.
- (I) The chair has the same voting privilege as any other member.
- (J) The board shall allow citizens to address the board on agenda items and during a period of time set aside for citizen communications. The chair may limit a speaker to three minutes.
- (K) The staff liaison shall prepare the board minutes. The minutes of each board meeting must include the vote of each member on each item before the board and indicate whether a member is absent or failed to vote on an item.
- (L) The Parks and Recreation Board's staff liaison shall retain all official board documents. The documents are public records under Texas Local Government Code Chapter 552 (Texas Public Information Act).
- (M) The chair shall adjourn a meeting not later than 10 p.m., unless the board votes to continue the meeting.

ARTICLE 8. COMMITTEES.

- (A) The Board shall establish and maintain the following two standing committees:

The Navigation Committee shall consist of members that are knowledgeable in

navigational matters. This committee reviews docks and shoreline modifications on Lake Lady Bird, Lake Austin and Lake Walter E. Long and comments on the navigational safety of a proposed development and the effect the development will have on the recreational and natural character of the Lake.

The Land, Facilities and Programs committee shall consist of members that serve in an advisory capacity to the full board on issues of development and programs of the public parks, playgrounds and recreational facilities and the general welfare of the public parks, playgrounds and recreational facilities.

Each standing or special committee must be established by an affirmative vote of the board. Each committee shall consist of at least three board members appointed by the chair and a staff member **shall be assigned to each committee** by the director of the Parks and Recreation Department. The staff member is an ex-officio, non-voting member of the committee.

- (B) The board chair shall appoint a committee member as the committee chair, with the member's consent. The board chair shall be an ex-officio, non-voting member of all standing committees.
- (C) **A majority of the total number of appointed committee members constitutes a quorum.**
- (D) Each standing committee shall meet on a regularly scheduled basis at least quarterly.
- (E) Each standing committee shall make an annual report to the board at the January board meeting.
- (F) Committee meetings must be posted in accordance with Texas Government Code Chapter 551 (Texas Open Meetings Act).
- (G) The chair may, with the board's approval, appoint special committees. The chair shall provide board members with prior notice of intent to appoint a special committee.

ARTICLE 9. PARLIAMENTARY AUTHORITY.

The rules contained in the current edition of Robert's Rules of Order shall govern the board in all cases to which they are applicable, except when inconsistent with these bylaws or with special rules of order which the board or city council may adopt.

ARTICLE 10. AMENDMENT OF BYLAWS.

A bylaw amendment is not effective unless approved by the Council Audit and Finance Committee.

Item # 6

ORDINANCE NO. 200901 -

AN ORDINANCE AMENDING LOCAL STANDARDS OF CARE FOR THE CITY PARKS AND RECREATION DEPARTMENT'S CHILDREN'S RECREATION PROGRAMS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. AUTHORITY.

The Council amends these local standards of care for the Parks and Recreation Department children's recreational programs under Texas Human Resources Code Section 42.041(b)(14) (*Required License and Accreditation*) and its home rule authority.

PART 2. DEFINITIONS.

In this ordinance:

- (1) ACTIVITY LEADER means a person responsible for the direct care or supervision of participants. The term excludes a person whose primary duties include administration, clerical support, food preparation, or facility maintenance.
- (2) DEPARTMENT means the Parks and Recreation Department.
- (3) DIRECTOR means the director of the Parks and Recreation Department.
- (4) FACILITY means a building or improvement operated or used by the department in conducting a recreational program.
- (5) PARTICIPANT means a child under the age of 18 who is enrolled in a recreational program and is under the supervision of department staff.
- (6) RECREATIONAL PROGRAM means a fee-based children's after school program or activity offered and supervised by the department that requires a child to enroll or register to participate. [~~This term excludes playgrounds and other drop-in recreational programs.~~]
- (7) STAFF means a person who is employed by the department to work in a recreational program.
- (8) VOLUNTEER means a person assisting without remuneration in the care or supervision of participants.

1
2 **PART 3. PROGRAM ADMINISTRATION.**

3 (A) The department shall operate recreational programs in compliance with this
4 ordinance and the department's rules adopted under this ordinance.

5 (B) The director shall administer the programs.

6 **PART 4. PROGRAM RULES; MONITORING.**

7 (A) The director shall adopt rules relating to the operation of the programs. A rule
8 adopted under this ordinance may be more restrictive than the minimum
9 standards adopted by this ordinance.

10 (B) The director shall monitor the programs to ensure compliance with the
11 standards adopted in this ordinance and the rules.

12 **PART 5. REQUIRED SUPERVISION FOR NON-AQUATIC RECREATIONAL**
13 **PROGRAMS.**

14 (A) Except as provided in Subsection (B) and Part 6 (*Required Supervision for*
15 *Aquatic Recreational Programs*), the department shall provide activity leaders
16 during a recreational program at a minimum as follows:

17 (1) one activity leader for each 8 children five years old or younger;

18 (2) one activity leader for each 12 children between the ages of six and nine
19 years old; and

20 (3) one activity leader for each 15 children between the ages of ten and
21 fifteen years old.

22 (B) The department shall provide activity leaders during a recreational program for
23 children with a disability at a minimum as follows:

24 (1) one activity leader for each four children twelve years old or younger;
25 and

26 (2) one activity leader for each eight children between the ages of thirteen
27 and eighteen years old.

1 **PART 6. REQUIRED SUPERVISION FOR AQUATIC RECREATIONAL**
2 **PROGRAMS.**

3 (A) Except as provided in Subsection (C), the department shall provide activity
4 leaders during a recreational program that includes swimming in a swimming
5 pool at a minimum as follows:

6 (1) one activity leader for each 2 children four years old or younger;

7 (2) one activity leader for each 8 children between the ages of five and
8 seven years old; and

9 (3) one activity leader for each 12 children eight years old or older.

10 (B) Except as provided in Subsection (C), the department shall provide activity
11 leaders during a recreational program that includes swimming in a wading
12 pool at a minimum as follows:

13 (1) one activity leader for each 2 children two years old or younger;

14 (2) one activity leader for each 5 children between the ages of three and five
15 years old; and

16 (3) one activity leader for each 12 children six years old or older.

17 (C) The department shall provide activity leaders during a recreational program for
18 children with a disability that includes recreational swimming in a swimming
19 pool or a wading pool at a minimum as follows:

20 (1) one activity leader for each child four years old or younger; and

21 (2) one activity leader for each eight children five years old or older.

22 (D) The department may not conduct a recreational program at a swimming pool
23 or wading pool outside a City park unless the use of the pool has been
24 approved by the director.

25 **PART 7. REQUIREMENTS FOR ACTIVITY LEADERS.**

26 (A) The department shall provide a minimum of one activity leader for each class
27 or group enrolled in a recreational program.

28 (B) An activity leader must be at least:

29 (1) 18 years old; or

(2) 15 years old if supervised by another activity leader who is at least 18 years old.

(C) An activity leader must obtain the following certification from a nationally recognized organization approved by the director:

(1) basic water rescue, if supervising a recreational program that includes swimming;

(2) cardiopulmonary ~~{cardiac pulmonary}~~ resuscitation for adults, children and infants; ~~{or equivalent}~~;~~{and}~~

(3) use of an automated external defibrillator, and

~~{(3)}~~(4) first aid.

PART 8. STAFF AND VOLUNTEER TRAINING REQUIREMENTS.

(A) The director shall establish training requirements for all staff and volunteers who provide direct care or supervision to participants.

(B) At least one staff member at each facility must have current training in cardiopulmonary resuscitation for adults, children and infants from a nationally recognized water safety program that has been approved by the director.

(C) Each staff member who supervises children in swimming or other water activities ~~[in more than two feet of water must be able to swim and]~~ shall be trained in basic water rescue by a nationally recognized water safety program that has been approved by the director. ~~[safety.]~~ A person who is not counted in the minimum staff-to-participant ratio is not required to meet these requirements.

PART 9. PERSONNEL RESTRICTION.

(A) A person may not be employed or serve as a volunteer in a recreational program if:

(1) the person would be permanently barred from being present at a child care operation while children are in care under the Texas Administrative Code Title 40, Part 19, Chapter 745 (*Licensing*); or

(2) the director determines that, based on the criminal history and other relevant and credible information, the person poses a risk to the safety or health of participants.

- 1 (B) The director may obtain a criminal history record of any employee or
2 volunteer working or applying to work in a recreational program.

3 **PART 10. FACILITY OPERATION; PHYSICAL ENVIRONMENT.**

- 4 (A) The department may not operate a recreational program at a facility unless the
5 facility meets the following requirements:

- 6 (1) The facility and equipment used in the program do not present fire,
7 health, or safety hazards and are kept free of refuse and debris.
- 8 (2) The facility is inspected annually for safety by the department.
- 9 (3) The facility is kept free of insects, rodents, and stray animals.
- 10 (4) The facility has clearly marked emergency exits.
- 11 (5) The facility has a disaster and evacuation procedure posted in a visible
12 location.
- 13 (6) The facility is used and maintained in accordance with the fire
14 prevention requirements of Chapter 25-12 (*Technical Codes*) and the fire
15 chief's directives, including not fewer than four fire drills each year.
- 16 (7) First aid and infection control kit are kept at the facility, including
17 sufficient additional kits to be taken to other locations at which
18 participants engage in a program activity.
- 19 (8) First aid guidelines are on file and visibly posted at the facility,
20 including:
- 21 (a) cardio pulmonary resuscitation and rescue breathing sequence
22 guidelines;
- 23 (b) first aid review; and
- 24 (c) emergency action plans [~~medical emergency procedures~~].
- 25 (9) The facility has a sufficient number of restrooms that are equipped for
26 independent use by children and that are designed to permit staff
27 supervision if necessary.

- 28 (B) The department shall maintain a campground or primitive facility used for a
29 recreation program in compliance with the requirements of Subsection (A) to
30 the extent possible.

- 1 (C) The department shall maintain equipment used in the programs in good
2 condition. Department staff shall remove a defective tool, machinery,
3 appliance, or other equipment and report the defective item to a supervisor.
4 Unauthorized staff may not repair defective equipment.

5 **PART 11. PHYSICAL HEALTH STANDARDS.**

- 6 (A) A staff member shall supervise a child who is ill or injured until a parent or
7 other authorized adult removes the child from the facility.
- 8 (B) Staff shall keep a child whose illness or medical condition that would
9 compromise the health or safety of the other participants separate from the
10 other participants until the child is removed from the facility.
- 11 (C) Staff may not admit or readmit a child whose illness or medical condition
12 prevents the child from comfortably participating in program activities or
13 places other participants at risk to the facility for the duration of the illness or
14 condition.
- 15 (D) In the case of an acute illness or injury to a child, staff shall call for an
16 emergency vehicle to transport the child to an authorized medical facility.

17 **PART 12. MEDICATION STANDARDS.**

- 18 (A) A staff member may not administer medication to a participant without a
19 parental medication authorization. Staff may not administer medication that is
20 not in its original container or past the expiration date on the container.
- 21 (B) A staff member may not administer an injection or an amount of medication
22 that is inconsistent with the prescribed dosage. A staff member may administer
23 an epinephrine auto-injector device if he or she has completed training
24 approved by the department.
- 25 (C) A staff member may not accept more than a one-week supply of medication
26 for a participant and the member shall return the unused medication to the
27 parent on the last program day of the week.
- 28 (D) Staff must keep medication in a secured location that is not accessible by
29 participants.
- 30 (E) A staff member shall maintain a medication log that includes the name of the
31 child to whom the medication is administered, the time the medication is
32 dispensed, and the name of the person dispensing the medication.
- 33

1 **PART 13. DISTRIBUTION OF STANDARDS.**

2 (A) The department shall post and make available copies of the standards adopted
3 in this ordinance or by rules adopted under this ordinance.

4 (B) The department shall inform the parents of each participant that the
5 recreational programs are not licensed by the state. The programs may not be
6 advertised as child-care facilities.

7
8 **PART 14. RECOMMENDATION FOR AMENDMENT OR RE-ADOPTION.**

9 Not later than February 1 of each year the director shall recommend to the Council
10 the amendment or re-adoption of the local standards adopted under this ordinance.

11 **PART 15. APPLICABILITY.**

12 This ordinance supersedes Chapter 8-2 (*Swimming Pool Use*) of the Code to the
13 extent of conflict.

14 **PART 16. EXPIRATION.**

15 This ordinance expires one year after its effective date.

16 **PART 17.** This ordinance takes effect on _____, 2009.

17
18 **PASSED AND APPROVED**

19
20
21
22 _____, 2009

§
§
§

Will Wynn
Mayor

23
24
25
26
27 **APPROVED:** _____
28 David Allan Smith
29 City Attorney

30 **ATTEST:** _____
31 Shirley A. Gentry
32 City Clerk

Item # 7



MEMORANDUM

To: Parks and Recreation Board

From: Sara L. Hensley, Director
Parks and Recreation Department

Date: December 16, 2008

Subject: Hastings Boat Dock

A request has been received from Jeff Walker to approve a site plan at 1608 Ski Slope Drive.

The Parks and Recreation Department staff has reviewed plans for the proposed boat dock and finds they do not meet the requirements of Article XIII, Section 25-2-1176, (Regulations for the Construction of Boat Docks) of the Land Development Code. The proposed single-slip boat dock exceeds 20% of shoreline frontage of the lot on which the structure is to be constructed.

Approval of the Parks and Recreation Board is required for structures that exceed 20% of shoreline frontage.

Sara L. Hensley, CPRP
Director, Austin Parks and Recreation

Item # 8



MEMORANDUM

To: Parks and Recreation Board

From: Sara L. Hensley, Director
Parks and Recreation Department

Date: December 16, 2008

Subject: Menn Boat Dock

A request has been received from Phil Moncada to approve a site plan at 4520 Rivercrest Drive.

The Parks and Recreation Department staff has reviewed plans for the proposed boat dock and finds they do not meet the requirements of Article XIII, Section 25-2-1176, (Regulations for the Construction of Boat Docks) of the Land Development Code. The proposed two-slip boat dock exceeds 20% of shoreline frontage of the lot on which the structure is to be constructed.

Approval of the Parks and Recreation Board is required for structures that exceed 20% of shoreline frontage.

Sara L. Hensley, CPRP
Director, Austin Parks and Recreation





Comments 0 | Recommend 0

New pool-spa safety law has Dallas parks scrambling

12:00 AM CST on Tuesday, December 9, 2008

By FRANK TREJO / The Dallas Morning News
ftrejo@dallasnews.com

Winter may be just around the corner, but Dallas park officials are among thousands of swimming pool owners and operators scrambling to comply with a federal law that takes effect Dec. 19.

The Virginia Graeme Baker Pool and Spa Safety Act is named after the 7-year-old granddaughter of former secretary of state James Baker III. She died in a 2002 spa accident.

Signed into law by President George W. Bush last year, the legislation is designed to protect young children from becoming trapped underwater by suction from pool or spa drains. The law is aimed primarily at public pools, such as those operated by cities, hotels and private associations. The main goal is to make sure pool drains have safety covers to prevent serious injury or death.

But all pool owners will eventually see changes, as equipment is replaced and new pools are built. Any drain cover sold or installed will have to meet the new standards as of Dec. 19.

The legislation also provides incentives for states to adopt comprehensive pool safety laws and a pool safety education program.

Daniel Huerta, an assistant director at the city's Park and Recreation Department, estimated it will cost more than \$200,000 to comply with the law. An exact cost is uncertain because some of the covers are not available, and it is not yet known how much work will have to be done to bring all 22 of the city's pools into compliance.

"It's certainly an interesting issue for us and for almost all cities," said Mr. Huerta, who briefed the Dallas Park Board last week on the law. "The Consumer Product Safety Commission issued their interpretation of the law just in September, when most city budgets were already approved."

Although the law takes effect next week, Mr. Huerta and others noted that public pools closed for the winter have to have the new drain covers before they open in the spring.

The city of Dallas has one year-round pool at Bachman Recreation Center. Covers have been ordered for that facility.

"We're definitely going to show a good faith effort to comply with the law because it's an important

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DAVID WOO/DMN
Steve Graves of Crystal Clear Pool Service shows off a new drain cover. The new law is aimed primarily at public pools.

safety issue," Mr. Huerta said.

Organizations such as the National Recreation and Park Association are asking for a delay in the deadline or a phased-in implementation. But so far no changes have been made.

Lauren Stack, a spokeswoman for the Association of Pool and Spa Professionals, acknowledged that getting all pools into compliance by the deadline may be difficult.

"It's an enormous undertaking when you think about the millions of pools out there and number of associations and service people responsible for maintaining them," Ms. Stack said. "We're doing our best to get the word out, but it's definitely something that's going to take awhile."

Scott Wolfson, a spokesman for the U.S. Consumer Product Safety Commission, described the measure as a "critically important safety law that will affect all public pools and spas in Texas and throughout the country."

"We are well aware of the cost factor, but we're calling on pool owners and operators to consider this an investment in safety that this law mandates," Mr. Wolfson said. "The Consumer Product Safety Commission has been working for nearly eight months to educate pool and spa owners. The word is out, but we know the challenges many are facing as we come close to the deadline."

The cost of compliance will vary, from a couple of hundred dollars to several thousand, depending on how much work needs to be done on the pool, officials said.

According to the Consumer Product Safety Commission, there were 74 reports of pool or spa entrapments between 1999 and 2007. Nine deaths and 63 injuries were reported during that time.

Tom Odeski, president of the North Texas chapter of the Association of Pool and Spa Professionals, said his organization will hold a meeting tonight at the Marriott Hotel at Dallas/Fort Worth International Airport to discuss the new law. More than 100 pool professionals, public health officials and commercial pool operators are expected to attend.

Mr. Odeski, who owns two pool-related businesses in North Texas, said that while the law does not immediately affect residential pools, his businesses have let residential customers know about the law and about the safety elements of the new drain covers.

Greg Knell, director of marketing for American Leak Detection, said his company is also trying to spread the word.

"There's a lot of demand at supply houses now for the covers," Mr. Knell said. "It seems like everybody is becoming aware of the requirement."

Madani, Farhad

From: NRPA [customerservice@nrpa.org]
Sent: Friday, December 05, 2008 11:10 AM
To: Madani, Farhad
Subject: NRPA Advocacy Ask: Help us Clarify VGB Pool Act Compliance

If you are having trouble viewing this email, view the [online version](#).



**National Recreation
and Park Association**

27377 Belmont Ridge Road
Ashburn, VA 20148-4501
Tel 703 858 0784
Fax 703 858 0764
www.nrpa.org

ADVOCACY ALERT

The Virginia Graeme Baker (VGB) Pool and Spa Safety Act

Help NRPA Clarify Compliance with this Regulation by Calling your US Representative, Senators and CPSC.

Here's What's Happening

On December 19, 2008, the Virginia Graeme Baker Pool and Spa Safety Act (VGB) will take affect. This federal regulation requires public pools and spas to be equipped with certified drain covers that meet the required ASME/ANSI A112.19.8 standards and safety measures to prevent entrapment and evisceration. VGB was enacted to ensure public safety in pools and spas and the intent of this legislation is certainly supported by NRPA and our members.

Despite good faith efforts, many public agencies are having difficulty complying with this legislation for reasons that are outside of their control. Product availability for uniquely sized drains, local water ordinances, availability of installation engineers, confusion on the part of local health departments and various other factors are all making compliance difficult.

As a result of these obstacles, many local recreation facilities will be forced to shut down causing a large scale disruption of public services and depriving local communities of recreation opportunities. The closing of pools would mean children could not take swimming lessons, high school swim teams would not be able to practice or compete, and therapeutic aquatic recreation programs which provide health benefits would cease to operate until pools could be brought into compliance, inspected, and safely re-opened for public use. Our member agencies tell us that the potential disruptions will be nationwide and are likely to significantly impact the public.

Here's How You Can Help

1. Contact your US Representative and Senators. Ask them to:

Call the Consumer Products Safety Commission (CPSC) and request CPSC to exercise its discretionary enforcement authority to allow park and recreation agencies adequate time to comply with the Virginia Graeme Baker Pool and Spa Safety Act. Congressional offices should contact Mary Toro via phone at 301.504.7586 or via e-mail at mtoro@cpsc.gov or Scott Wolfson at 301.504.7051 or swolfson@cpsc.gov.

Why Should Legislators Support Clarification on Compliance?

Agencies who are making good faith efforts but are not given adequate time to comply, may still be facing shut downs of local facilities. This will cause a large-scale disruption of public services and deprive local communities of recreation opportunities. Your local Representative and/or Senators should ask the CPSC to provide clarity in writing on the issue of compliance.

Contact Information

Call the Capitol Switchboard at 202.225.3121 and ask to be connected to your Senators' and Representative's office. Visit the [House of Representatives Web site](#) or the [Senate Web site](#) to find out who represents you in Congress.

2. Personally contact CPSC yourself and make the same request.

Contacts:

Mary Toro 301.504.7586
mtoro@cpsc.gov

12/11/2008

Scott Wolfson 301.504.7051
swolfson@cpsc.gov

Resources

To view NRPA comments to CPSC visit: <http://www.nrpa.org/content/default.aspx?documentId=8360>



**National Recreation
and Park Association**

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From: Moore, Katie [mailto:Katie.Moore@dshs.state.tx.us]
Sent: Wednesday, December 10, 2008 9:36 AM
To: Nelson, Tom
Subject: RE: VGB Safety Act

The State of Texas does not have the authority to enforce VGB neither do counties or most municipalities. Until the rules are changed or ordinances are changed actual enforcement of the Act falls under the authority of the Consumer Product Safety Commission. What I do recommend is that each facility that wants its pools/spas to remain open after 12/19/2008, to try to come into compliance. If that is not possible then each facility must consider whether to close the facility until compliance can be achieved or to remain open. I also recommend that this is discussed with legal counsel and risk managers. Some facilities will have little risk of entrapment, for example gutter pools with surge tanks and lifeguards on duty whenever the pool/spa is open, while some will bear substantial risk, wade pools with single main drains and no SVRD and no lifeguards monitoring the pool.

Kathleen O. Moore, R.S., CPO

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(512) 834-6788, Ext. 2306
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****Please make a note of the new phone number: (512) 834-6788, Ext 2306****

From: Nelson, Tom [mailto:Tom.Nelson@ci.austin.tx.us]
Sent: Wednesday, December 10, 2008 8:08 AM
To: Moore, Katie
Cc: MacDougal, Mark
Subject: VGB Safety Act

Katie

I need to get some information about the December 19th deadline for the VGB Safety Act. We do have two facilities that are operating that will not comply by this deadline. The grates are not available, but we do have emails to the respective companies concerning the purchase of the appropriate grates. One pool was closed and drained for service in preparation of the grates because our sources said that the grates would be in stock but the grates were not ready. I need to know if you plan on closing any facilities even though a good faith effort is being made?

Thank you for your assistance.

(ii) whether duplicative facilities are necessary or desirable.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

SEC. 1309. DOE STUDY OF SECURITY ATTRIBUTES OF SMART GRID SYSTEMS.

Deadline.
Reports.

(a) DOE STUDY.—The Secretary shall, within 18 months after the date of enactment of this Act, submit a report to Congress that provides a quantitative assessment and determination of the existing and potential impacts of the deployment of Smart Grid systems on improving the security of the Nation's electricity infrastructure and operating capability. The report shall include but not be limited to specific recommendations on each of the following:

(1) How smart grid systems can help in making the Nation's electricity system less vulnerable to disruptions due to intentional acts against the system.

(2) How smart grid systems can help in restoring the integrity of the Nation's electricity system subsequent to disruptions.

(3) How smart grid systems can facilitate nationwide, inter-operable emergency communications and control of the Nation's electricity system during times of localized, regional, or nationwide emergency.

(4) What risks must be taken into account that smart grid systems may, if not carefully created and managed, create vulnerability to security threats of any sort, and how such risks may be mitigated.

(b) CONSULTATION.—The Secretary shall consult with other Federal agencies in the development of the report under this section, including but not limited to the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Electric Reliability Organization certified by the Commission under section 215(c) of the Federal Power Act (16 U.S.C. 824o) as added by section 1211 of the Energy Policy Act of 2005 (Public Law 109-58; 119 Stat. 941).

Virginia Graeme
Baker Pool and
Spa Safety Act.
16 USC 8001
note.

TITLE XIV—POOL AND SPA SAFETY

SEC. 1401. SHORT TITLE.

This title may be cited as the "Virginia Graeme Baker Pool and Spa Safety Act".

16 USC 8001.

SEC. 1402. FINDINGS.

Congress finds the following:

(1) Of injury-related deaths, drowning is the second leading cause of death in children aged 1 to 14 in the United States.

(2) In 2004, 761 children aged 14 and under died as a result of unintentional drowning.

(3) Adult supervision at all aquatic venues is a critical safety factor in preventing children from drowning.

(4) Research studies show that the installation and proper use of barriers or fencing, as well as additional layers of protection, could substantially reduce the number of childhood residential swimming pool drownings and near drownings.

SEC. 1403. DEFINITIONS.

15 USC 8002.

In this title:

(1) **ASME/ANSI.**—The term “ASME/ANSI” as applied to a safety standard means such a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) **BARRIER.**—The term “barrier” includes a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.

(3) **COMMISSION.**—The term “Commission” means the Consumer Product Safety Commission.

(4) **MAIN DRAIN.**—The term “main drain” means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a recirculating pump.

(5) **SAFETY VACUUM RELEASE SYSTEM.**—The term “safety vacuum release system” means a vacuum release system capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to a suction outlet flow blockage.

(6) **SWIMMING POOL; SPA.**—The term “swimming pool” or “spa” means any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools.

(7) **UNBLOCKABLE DRAIN.**—The term “unblockable drain” means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

SEC. 1404. FEDERAL SWIMMING POOL AND SPA DRAIN COVER STANDARD.

15 USC 8003.

(a) **CONSUMER PRODUCT SAFETY RULE.**—The requirements described in subsection (b) shall be treated as a consumer product safety rule issued by the Consumer Product Safety Commission under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(b) **DRAIN COVER STANDARD.**—Effective 1 year after the date of enactment of this title, each swimming pool or spa drain cover manufactured, distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard regulating such swimming pool or drain cover.

Effective date.

(c) **PUBLIC POOLS.**—

(1) **REQUIRED EQUIPMENT.**—

(A) **IN GENERAL.**—Beginning 1 year after the date of enactment of this title—

Effective date.

(i) each public pool and spa in the United States shall be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI A112.19.8 performance standard, or any successor standard; and

(ii) each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped, at a minimum, with 1 or more of the following devices or systems designed to prevent entrapment by pool or spa drains that meets the requirements of subparagraph (B):

(I) **SAFETY VACUUM RELEASE SYSTEM.**—A safety vacuum release system which ceases operation of

the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387.

(II) SUCTION-LIMITING VENT SYSTEM.—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(III) GRAVITY DRAINAGE SYSTEM.—A gravity drainage system that utilizes a collector tank.

(IV) AUTOMATIC PUMP SHUT-OFF SYSTEM.—An automatic pump shut-off system.

(V) DRAIN DISABLEMENT.—A device or system that disables the drain.

(VI) OTHER SYSTEMS.—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subclauses (I) through (V) of this clause at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(B) APPLICABLE STANDARDS.—Any device or system described in subparagraph (A)(ii) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

(2) PUBLIC POOL AND SPA DEFINED.—In this subsection, the term “public pool and spa” means a swimming pool or spa that is—

(A) open to the public generally, whether for a fee or free of charge;

(B) open exclusively to—

(i) members of an organization and their guests;

(ii) residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multi-family residential area (other than a municipality, township, or other local government jurisdiction); or

(iii) patrons of a hotel or other public accommodations facility; or

(C) operated by the Federal Government (or by a concessionaire on behalf of the Federal Government) for the benefit of members of the Armed Forces and their dependents or employees of any department or agency and their dependents.

(3) ENFORCEMENT.—Violation of paragraph (1) shall be considered to be a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)) and may also be enforced under section 17 of that Act (15 U.S.C. 2066).

15 USC 8004.

SEC. 1405. STATE SWIMMING POOL SAFETY GRANT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations authorized by subsection (e), the Commission shall establish a grant program to provide assistance to eligible States.

(b) ELIGIBILITY.—To be eligible for a grant under the program, a State shall—

(1) demonstrate to the satisfaction of the Commission that it has a State statute, or that, after the date of enactment of this title, it has enacted a statute, or amended an existing statute, and provides for the enforcement of, a law that—

(A) except as provided in section 1406(a)(1)(A)(i), applies to all swimming pools in the State; and

(B) meets the minimum State law requirements of section 1406; and

(2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.

(c) AMOUNT OF GRANT.—The Commission shall determine the amount of a grant awarded under this title, and shall consider—

(1) the population and relative enforcement needs of each qualifying State; and

(2) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment, and, in making that allocation, shall give priority to States that have not received a grant under this title in a preceding fiscal year.

(d) USE OF GRANT FUNDS.—A State receiving a grant under this section shall use—

(1) at least 50 percent of amounts made available to hire and train enforcement personnel for implementation and enforcement of standards under the State swimming pool and spa safety law; and

(2) the remainder—

(A) to educate pool construction and installation companies and pool service companies about the standards;

(B) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law and about the prevention of drowning or entrapment of children using swimming pools and spas; and

(C) to defray administrative costs associated with such training and education programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of fiscal years 2009 and 2010 \$2,000,000 to carry out this section, such sums to remain available until expended. Any amounts appropriated pursuant to this subsection that remain unexpended and unobligated at the end of fiscal year 2010 shall be retained by the Commission and credited to the appropriations account that funds enforcement of the Consumer Product Safety Act.

SEC. 1406. MINIMUM STATE LAW REQUIREMENTS.

15 USC 8005.

(a) IN GENERAL.—

(1) SAFETY STANDARDS.—A State meets the minimum State law requirements of this section if—

(A) the State requires by statute—

(i) the enclosure of all outdoor residential pools and spas by barriers to entry that will effectively prevent small children from gaining unsupervised and unfettered access to the pool or spa;

(ii) that all pools and spas be equipped with devices and systems designed to prevent entrapment by pool or spa drains;

121 STAT. 1798

Notification.
Comment period.

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(3) **DOORS.**—Any door with direct access to the swimming pool or spa that is equipped with an audible alert device or alarm which sounds when the door is opened.

(4) **POOL ALARM.**—A device designed to provide rapid detection of an entry into the water of a swimming pool or spa.

(d) **ENTRAPMENT, ENTANGLEMENT, AND EVISCERATION PREVENTION STANDARDS TO BE REQUIRED.**—

(1) **IN GENERAL.**—In establishing additional minimum State law requirements for swimming pools and spas under subsection (a)(1), the Commission shall require, at a minimum, 1 or more of the following (except for pools constructed without a single main drain):

(A) **SAFETY VACUUM RELEASE SYSTEM.**—A safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected, that has been tested by an independent third party and found to conform to ASME/ANSI standard A112.19.17 or ASTM standard F2387, or any successor standard.

(B) **SUCTION-LIMITING VENT SYSTEM.**—A suction-limiting vent system with a tamper-resistant atmospheric opening.

(C) **GRAVITY DRAINAGE SYSTEM.**—A gravity drainage system that utilizes a collector tank.

(D) **AUTOMATIC PUMP SHUT-OFF SYSTEM.**—An automatic pump shut-off system.

(E) **DRAIN DISABLEMENT.**—A device or system that disables the drain.

(F) **OTHER SYSTEMS.**—Any other system determined by the Commission to be equally effective as, or better than, the systems described in subparagraphs (A) through (E) of this paragraph at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(2) **APPLICABLE STANDARDS.**—Any device or system described in subparagraphs (B) through (E) of paragraph (1) shall meet the requirements of any ASME/ANSI or ASTM performance standard if there is such a standard for such a device or system, or any applicable consumer product safety standard.

SEC. 1407. EDUCATION PROGRAM.

15 USC 8006.

(a) **IN GENERAL.**—The Commission shall establish and carry out an education program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—

(1) educational materials designed for pool manufacturers, pool service companies, and pool supply retail outlets;

(2) educational materials designed for pool owners and operators; and

(3) a national media campaign to promote awareness of pool and spa safety.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission for each of the fiscal years 2008 through 2012 \$5,000,000 to carry out the education program authorized by subsection (a).

15 USC 8007.

SEC. 1408. CPSC REPORT.

Not later than 1 year after the last day of each fiscal year for which grants are made under section 1405, the Commission shall submit to Congress a report evaluating the implementation of the grant program authorized by that section.

TITLE XV—REVENUE PROVISIONS**SEC. 1500. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 1501. EXTENSION OF ADDITIONAL 0.2 PERCENT FUTA SURTAX.

26 USC 3301.

(a) **IN GENERAL.**—Section 3301 (relating to rate of tax) is amended—

(1) by striking “2007” in paragraph (1) and inserting “2008”, and

(2) by striking “2008” in paragraph (2) and inserting “2009”.

26 USC 3301
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to wages paid after December 31, 2007.

SEC. 1502. 7-YEAR AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR CERTAIN MAJOR INTEGRATED OIL COMPANIES.

26 USC 167.

(a) **IN GENERAL.**—Subparagraph (A) of section 167(h)(5) (relating to special rule for major integrated oil companies) is amended by striking “5-year” and inserting “7-year”.

26 USC 167 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.