



# BY-LAW

2000-55

## SWIMMING POOL FENCE BY-LAW

**WHEREAS** pursuant to Paragraph 30 of Section 210 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, a by-law may be passed to issue permits for swimming pool fences and to prescribe safety standards for privately owned outdoor swimming pools;

**AND WHEREAS** Section 220.1 of the Municipal Act, 1990, c. M.45, as amended by Section 10 of Schedule M of the Savings and Restructuring Act, 1996 provides that the Council may by by-law impose fees for services and activities provided or done by or on behalf of The Corporation of the Township of Huron-Kinloss;

NOW THEREFORE the Council for the Corporation of the Township of Huron-Kinloss HEREBY ENACTS AS FOLLOWS:

### PART 1 - DEFINITIONS

#### 1.0 In this By-Law

- 1.1 Chief Building Official – means the Chief Building Official appointed by Council under section 3 of the Building Code Act, 1992.
- 1.2 Gate – means any part of a swimming pool fence, which opens on hinges and includes a door located in the wall of an attached or detached garage or carport that forms part of the swimming pool fence.
- 1.3 Hydro Massage Pool – shall include those pools commonly referred to as a hot tub, a whirlpool, a Jacuzzi or a spa.
- 1.4 Maintain – shall mean to carry out repairs of any part or parts of a swimming pool fence so that it can properly perform the intended function.
- 1.5 Replacement – shall mean the construction of a swimming pool fence that takes the place of a swimming pool fence previously constructed.
- 1.6 Self-closing device – shall mean a mechanical device or spring that returns a swimming pool fence gate to its closed position within 30 seconds after it has been opened.
- 1.7 Self-latching device – shall mean a mechanical device or latch which is engaged each time the swimming pool fence gate is secured to its closed position; which will not allow the swimming pool fence gate to be re-opened by pushing or pulling, and which will ensure the swimming pool fence gate remains closed until unlatched by either lifting or turning the device itself directly or by key.

- 1.8 Swimming pool – shall mean a structure, basin, chamber or tank containing or capable of containing water, and is designed to be used for swimming or wadding, and
- a) Has a depth of 90 cm (36 inches) or more at any point; and
  - b) Has a surface area of more than 1 square metre (10.8 square feet); and
  - c) Is not under the jurisdiction of the Building Code; and
  - d) Is not completely inside a building; and
  - e) Is not owned by government or a local board or commission constituted under any statute or by-law; and
  - f) Is not a pond or reservoir to be utilized for farming purposes or as an architectural feature; and
  - g) Excludes hydro massage pools; and
  - h) Excludes storm water management ponds.
- 1.9 Swimming pool fence – shall mean a wall, a structure or a building that encloses a swimming pool.

1.10 Township – means The Corporation of the Township of Huron-Kinloss.

## **2.0 GENERAL PROVISIONS**

- 2.1 This by-law shall be administered by the Chief Building Official.
- 2.2 This by-law shall apply to all swimming pool fences constructed or replaced in the township on or after July 17<sup>th</sup> 2000.
- 2.3 The provisions of this by-law shall not prevent the use of an existing swimming pool fence if such swimming pool fence was constructed and has enclosed a swimming pool from the date of its construction on or before July 17<sup>th</sup> 2000, and was built in accordance with the regulations of the by-law existing prior to July 17<sup>th</sup> 2000.
- 2.4 Where any swimming pool fence was constructed to enclose a swimming pool in accordance with the regulations that existed on or before July 17<sup>th</sup> 2000, the swimming pool fence may be maintained in accordance with such regulations.
- 2.5 At such time as an entire existing swimming pool fence is replaced the replacement swimming pool fence shall be constructed in accordance with this by-law.
- 2.6 When a swimming pool fence is constructed so that it functions as a boundary fence between two or more adjacent properties, in addition to its function as a swimming pool fence, the provisions of this by-law prevail over any other Township by-law that regulates fences.

## **3.0 PROHIBITIONS**

- 3.1 No person shall construct or cause to be constructed a swimming pool that is not completely enclosed by a swimming pool fence, in accordance with this by-law.
- 3.2 No person shall construct or cause to be constructed a swimming pool without having first obtained a swimming pool fence permit from the Chief Building Official.
- 3.3 No person shall fail to enclose a swimming pool with temporary fencing during construction.

- 3.4 No person shall construct or cause to be constructed a swimming pool with a swimming pool fence that does not conform to the requirements of this by-law.
- 3.5 No person shall fail to equip a swimming pool fence gate with a self-closing device and a self-latching device.
- 3.6 If a sliding door located in the wall of a residence that forms part of a swimming pool fence it is exempt from the requirements of 3.5 provided entry into the residence is deterred.
- 3.7 No person shall construct or maintain a swimming pool fence gate with an outside opening self-latching device less than 122 centimetres (48 inches) above ground level.
- 3.8 No person shall place or store materials against the outside of a swimming pool fence.
- 3.9 No person shall replace a swimming pool fence without first having obtained a permit from the Chief Building Official.
- 3.10 No person shall fail to maintain a swimming pool fence in accordance with this by-law.

#### **4.0 APPLICATION FOR PERMIT**

- 4.1 An application for a permit to erect a new swimming pool fence or for the replacement of an existing swimming pool fence shall be made by the owner or his or her agent, in writing to the Chief Building Official on such forms as may be prescribed.
- 4.2 All such applications shall be accompanied by the following:
- a) Plans showing the location of the proposed swimming pool including all enclosing swimming pool fences, together with full details of each entrance and showing the location of all proposed swimming pool equipment such as filters, slides and heaters.
  - b) The applicable fees as established by the Township's consolidated fee by-law, as amended from time to time.
- 4.3 The Chief Building Official Shall issue a permit for a swimming pool fence where the plans submitted appear to comply with all applicable regulations and the requirements of the by-law have been met.

#### **5.0 SWIMMING POOL FENCE REGULATIONS**

- 5.1 Every swimming pool shall be enclosed by a swimming pool fence that shall extend from the ground to a height of not less than 153 centimetres (60 inches).
- 5.2 Except as provided in section 5.3 of this by-law, every swimming pool fence referred to in section 5.1 of this by-law shall not have any openings that would allow the passage of a spherical object having a diameter greater than 3.8 centimetres (1.5 inches).
- 5.3 For other than chain link fences, where the vertical distance between each horizontal rail measured from the top of each rail is 1.2 metres (4 feet) or greater, the openings in the fence are permitted to be greater than 3.8 cm (1.5 inches) but not greater than that which would allow the passage of a spherical object having a diameter of 10 cm (4 inches).

- 5.4 Every swimming pool shall be enclosed by a swimming pool fence which has a clearance from the ground to the under side of the swimming pool fence that would prevent the passage of a spherical object having a diameter of 10 cm (4 inches)
- 5.5 Every swimming pool shall be enclosed by a swimming pool fence which has all its horizontal structural members located inside the enclosure to prevent easy climbing unless the swimming pool fence has no openings greater than 3.8 cm (1.5 inches) and the horizontal members are at least 0.6 metres (2 feet) apart.
- 5.6 Every swimming pool shall be enclosed by a swimming pool fence that is of sturdy construction, capable of preventing unauthorized entry.
- 5.7 The height of the swimming pool fence shall be measured from ground level on the outside of the enclosure.
- 5.8 Every gate on a swimming pool fence shall be equipped with a self-closing and self-latching device.
- 5.9 A self-latching device that can be opened without a key from the outside shall not be less than 122 cm (48 inches) above ground level.
- 5.10 During all phases of construction temporary fencing shall be place such that unauthorized access is prevented.

#### **6.0 ENFORCEMENT**

- 6.1 Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act.
- 6.2 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
- 6.3 Where anything required to be done in accordance with this by-law is not done, the Chief Building Official for The Corporation of the Township of Huron-Kinloss appointed pursuant to the Building Code Act may, upon such notice as he deems suitable, do such things at the expense of the person required to do it and such expense may be recovered by action or in like manner as municipal taxes.

#### **7.0 ENACTMENT**

- 7.1 This by-law comes into force on upon its final passage.
- 7.2 This By-Law may be cited as the "Swimming Pool Fences By-Law".

**READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED** this 17<sup>th</sup> day of July, 2000.

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Mayor



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Deputy Clerk