

THE CORPORATION OF THE TOWNSHIP OF HAMILTON

BY-LAW NO. 91-120

BEING A BY-LAW TO REGULATE AND REQUIRE THE ENCLOSURE  
OF OUTDOOR SWIMMING POOLS

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**WHEREAS** Section 210(23) of the Municipal Act, R.S.O. 1980 as amended, authorizes the Council of a Municipality for requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates, for prohibiting person from placing water in privately-owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit certifying approval of such plans without which permit no privately-owned outdoor swimming pool may be excavated for or erected and for authorizing the refusal of a permit for any such fences or gates that if erected would be contrary to the provisions of any by-law of the municipality;

**NOW THEREFORE BE IT RESOLVED** that the Council of the Corporation of the Township of Hamilton ENACTS as follows:

1. Interpretation:
  - a) Privately-owned outdoor swimming pool, hereafter referred to as a pool, means any privately-owned body of water located outdoors, contained in part or in whole by artificial means in which the depth of water at any point can exceed twenty-four (24) inches and which is used or capable of being used for swimming, diving or bathing.
  - b) Owner includes lessee, tenant or person in possession of property on which a privately-owned swimming pool is located.
  - c) Enclosure means a fence, wall or other structure, including doors and gates, completely surrounding a pool.
2. No person shall fill a pool with water or allow a pool to be filled with water until an enclosure complying with the provisions of this by-law has been erected.
3. Such enclosure shall extend from the ground level to a height of not less than five feet.
4. A fence forming part of an enclosure, shall:
  - a) Be located not closer than four feet to a pool.
  - b) Have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
  - c) In no part consist of barbed or electric wire or other material having similar dangerous characteristics and no device for projecting an electric current through said fence.
  - d) If of chain link construction, be
    - i) of not greater than two inch diamond mesh
    - ii) constructed of galvanized wire not less than 13 gauge diameter
    - iii) supported on substantial posts of wood or steel not more than 8 feet apart at least 24 inches in depth below ground level.

- e) If of wood construction, be:
    - i) of vertical boarded construction attached to supporting members in such a manner as not to facilitate climbing from the outside
    - ii) supported on substantial posts not more than eight feet apart which are embedded at least 36 inches in the ground.
  - f) If of any other material and construction, provide an equivalent degree of safety as that of chain link or wood construction. Wood lattice shall not form any part of the required fence enclosure.
5. Gates forming part of an enclosure, shall:
- a) be of construction and height equivalent to that required for the fence
  - b) be supported on substantial hinges
  - c) be self-closing and equipped with self latching devices placed at the top and on the inside of said gates.
6. Any door providing access from a building forming part of an enclosure, other than a door located in a dwelling unit or rooming unit, shall be self-enclosed and equipped with a self-latching device located not less than five feet above the bottom of the door.
7. Every gate providing access to a pool shall be kept locked at all times when a responsible person is not present and supervising the pool.
8. Notwithstanding anything contained herein, an enclosure shall not be required where the outside wall of the pool is elevated at least five feet above the grade of the ground abutting such wall and each and every entrance to a pool is protected, by a gate at least five feet high and having self-closing, self-latching devices.
9. The provisions of this by-law shall apply to all pools regardless of the date of construction.
10. No person shall commence or continue any of the work referred to in this by-law unless the owner of the swimming pool has first obtained a building permit. The fee for such a permit shall be at the rate as set out in the Building By-Law. Permits to be issued by the Building Inspector.
11. Any owner not complying with this by-law is required to drain his pool forthwith and to keep it drained until such time as there is compliance.
12. In the event the owner does not comply with Section 11 of this by-law, the municipality may drain the pool or take whatever action is deemed necessary for public safety.
13. Any person who contravenes any provision of this by-law is guilty of an offence and is liable, on summary conviction to a fine of not more than two thousand dollars (\$2,000.00), exclusive of costs, the said penalty shall be recoverable under the provisions of the Summary Convictions Act.
14. That this by-law shall come into force and take effect on the date of passing.
15. Any by-law that is inconsistent with this by-law shall be hereby repealed.

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Pg. 3

This by-law given a FIRST, SECOND and THIRD READING and FINALLY PASSED this 15<sup>th</sup> day of October 1991.

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REEVE

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CLERK