



The Corporation of the Township of Hamilton

By-law Number 2019 – 34

Being a By-law to regulate and require the enclosure of outdoor swimming pools

Whereas Section 210(23) of the Municipal Act, R.S.O. 1980 as amended, authorizes the Council of a Municipality to require 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(s) from placing water in such 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 permits certifying approval of such plans. Without such permits no privately-owned swimming pool may be excavated for or erected and for authorizing the refusal of a permit for any such fences and 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:

Part 1: Definitions

In this By-law:

- 1.01 “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 0.6 metres (2 feet) and which is used or capable of being used for swimming, diving or bathing.
- 1.02 “Owner” means lessee, tenant or person in possession of property on which a pool is located.
- 1.03 “Enclosure” means a fence, wall or other structure, including doors and gates, completely surrounding a pool.

Part 2: General Provisions

- 2.01 No person shall fill a pool with water or allow a pool to be filled with water until an enclosure complying with this By-law has been erected.
- 2.02 Such enclosure shall extend from the ground level to a height of not less than five (5) feet.
- 2.03 A fence forming part of an enclosure shall;
 - a) Be located not closer than 1.2 metres (4 feet) from the pool;
 - b) Have no rails, horizontal or diagonal bracing or other 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) Have no openings when all gates are closed that allow the passage of a spherical object larger than 0.1 metres (4 inches) in diameter; and
 - e) If of chain link construction be;

- i. Of not greater than 0.05 metres (2 inch) diamond mesh;
 - ii. Constructed of galvanized wire not less than thirteen 13 gauge diameter; and
 - iii. Supported on substantial posts of wood or steel not more than 2.4 metres (8 feet) apart at least 0.6metres (2) feet in depth below ground level; or
 - f) If of wood construction be;
 - i. Of vertical boarded construction attached to supporting members; and
 - ii. Supported on substantial posts not more than 2.4metres (8 feet) apart which are embedded at least 0.9metres (3 feet) in depth below ground.
 - g) 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.
- 2.04 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; and
 - c) Be self-closing and equipped with self latching devices placed at the top and on the inside of said gates.
- 2.05 Any door providing access from a building forming part of an enclosure, other than a door located in a dwelling or rooming unit, shall be self-enclosed and equipped with a self-latching device located not less than 1.5metres (5 feet) above the bottom of the door.
- 2.06 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.
- 2.07 Notwithstanding anything contained herein, an enclosure shall not be required where the outside wall of the pool is elevated at least 1.5metres (5 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 1.5metres (5 feet) high and having self-closing, self-latching devices.
- 2.08 The provisions of this By-law shall apply to all pools regardless of the date of construction.
- 2.09 No person shall commence or continue any of the work referred to in this By-law unless the owner of the pool has first obtained a By-law permit. Refer to Schedule 'F' of the Fees and Charges By-law 2017-15, as amended for applicable permit fees.
- 2.10 Any owner not complying with this By-law is required to drain his/her pool forthwith and to keep it drained until such time as there is compliance.
- 2.11 In the event the owner does not comply with Section 2.10 of this By-law, the municipality may drain the pool, at the owner's expense, or take whatever action is deemed necessary for public safety.
- 2.12 Any person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the provisions of the Provincial Offences Act, R.S.O. 1990, c.33.

2.13 That this By-law shall come into force and take effect on the date of passing.

2.14 By-law 91-120 shall be hereby repealed.

This By-law read a first, second and third time and finally passed this 21 day of May, 2019.

William Cane, MAYOR

Kate Sureus, CLERK