

THE CORPORATION OF THE
TOWNSHIP OF LANARK HIGHLANDS

BY-LAW NO. 2005 - 591

**BEING A BY-LAW TO REGULATE FENCES AROUND
PRIVATELY OWNED SWIMMING POOLS
IN THE TOWNSHIP OF LANARK HIGHLANDS.**

WHEREAS Section 5(3), Municipal Act 2001, S.O. 2001, provides that a municipal power, including a municipality's capacity, rights, powers and privileges under section 8, shall be exercised by By-Law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS 4.34.3 of the Zoning By-Law for the Township of Lanark Highlands No. 2003-451 requires that a swimming pool be totally enclosed by a free standing fence or a fence which is integrated into the design of the swimming pool;

AND WHEREAS the Council of the Corporation of the Township of Lanark Highlands adopted By-law No. 2004-512 implementing the intentions of Section 4.34.3 of the Comprehensive Zoning By-Law;

AND WHEREAS it is deemed appropriate to provide clarification to the definition of "Swimming Pool";

NOW THEREFORE the Council of the Corporation of the Township of Lanark Highlands **ENACTS AS FOLLOWS:-**

SHORT TITLE – SECTION 1

- 1.1. This By-Law shall be known and may be cited as the "Swimming Pool Fence By-Law".

DEFINITIONS – SECTION 2

- 2.1. "Chief Building Official" means the Chief Building Official appointed by the Township of Lanark Highlands under the Ontario Building Code Act or his/her designate for administrative purposes.
- 2.2. "Enclosure" means a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool designed to restrict access.
- 2.3. "Owner" means the individual, firm or corporation that is the registered owner of the land and includes a lessee, tenant, mortgagee in possession, and the person or persons in charge of land on which a swimming pool is located.
- 2.4. "Swimming pool" means any in-ground or above-ground pool means any in-ground or above-ground pool (hard sided and soft-sided) containing water greater than 60 cm (24 inches) deep, or has capacity to hold water of a depth greater than 60 cm (2 feet) which has been artificially created for the purpose of

2

swimming, bathing, wading or reflecting, but does not include a swimming pool owned by a public or government body, agency or authority, any farm pond, or any naturally occurring streams, lakes or quarries.

2.5. "Swimming pool fence" means a fence surrounding a privately owned outdoor swimming pool and shall include a fence integrated into the design of the swimming pool.

2.6. "Township" means the Corporation of the Township of Lanark Highlands.

GENERAL PROVISIONS – SECTION 3

3.1. No person shall erect or cause to be erected, a swimming pool, unless totally enclosed by a free standing fence or fence which is integrated into the design of the swimming pool.

3.2. Administration of this By-Law shall be under the authority of the Chief Building Official of the Corporation of the Township of Lanark Highlands.

3.3. Inspection – the Chief Building Official shall have the right to enter onto any property containing a new privately owned outdoor swimming pool during reasonable hours for the purpose of inspecting the swimming pool fence enclosure.

3.4. Swimming pools shall be located no closer to lot lines than permitted by the Township of Lanark Highlands Zoning By-Law No. 2003-451.

3.5. Provisions of this By-Law shall apply to all privately owned outdoor swimming pools constructed subsequent to the date of passage of this By-Law.

3.6. No person shall excavate for or cause or permit excavation for any privately owned outdoor swimming pool, or erect or cause or permit the erection of any privately owned outdoor swimming pool without first obtaining a swimming pool fence permit from the Township.

3.7. Prior to issuing such permit, the Chief Building Official shall be satisfied that the proposed fence shall be in conformity with the requirements stipulated herein.

3.8. No person shall place water in a swimming pool, allow water to remain in a swimming pool or use a swimming pool unless an enclosure has been erected in accordance with the provisions of this By-Law.

FENCING REQUIREMENTS – SECTION 5

4.1. Specifications – every swimming pool shall be enclosed with fencing, or enclosure, including gates, in accordance with one or more of the specifications set out in this By-Law. Such fencing, or enclosure, including gates therein shall extend from the ground to the height of not less than 1.52 m (5 feet) and shall fulfill the intent of prohibiting unauthorized trespass unto the swimming pool area.

4.1.1. No space or opening below the top of an enclosure shall be more than 100mm (4 inches) in length or width.
No enclosure shall be located closer than 1.2 m (4 ft) to any feature that

facilitates the climbing of the enclosure unless alternative measures, satisfactory to the Chief Building Official, are implemented to provide an equivalent level of safety as set out in this By-Law.

- 4.1.2. No enclosure shall be constructed with any features which may facilitate climbing.
- 4.2. Chain Link Fence – may be used, with links not exceeding 44 mm (1.5 in.) consisting of 12 gauge galvanized steel wire, or of 14 gauge steel wire covered with vinyl or other approved plastic that would yield a total thickness equivalent to 12 gauge wire.
 - 4.2.1 Galvanized steel supporting posts measuring 38 mm (1.5 in) in diameter) spaced at a maximum of 3.0 m (10 ft) apart may be used. Such posts shall be encased in concrete extending below grade; and top and bottom rail shall be firmly fastened to the upright posts and made of 32 mm (1.25 in) diameter galvanized steel. A galvanized steel rod / wire 5 mm may be substituted for the bottom rail.
- 4.3. Wood / Board Fence – a fence of vertical board construction shall have wood of 19 mm (3/4 in) thick attached to a top and bottom rail in such a manner as to prevent climbing from the outside. Such boards must not be less than 19 mm x 100 mm (3/4 in x 4 in) and must be spaced not more than 100 mm (4 in) apart.

Supporting horizontal members shall have a minimum dimension of 39 x 89 mm (2 x 4 inch nominal) and shall be spaced a minimum of 1.22 m (4 ft) apart installed on swimming pool side; and horizontal members shall be supported by posts that are a minimum 89 mm (4 inches square) and shall be spaced a maximum of 3.0 m (10ft) apart. The posts shall be placed a minimum of 0.5 m (2 ft) below grade with the portion below grade treated with an approved wood preservative or equivalent.
- 4.4. Exceptions – the wall of a building may form part of the required enclosure, except where:
 - (a) the main building entrance is located within the swimming pool enclosure; or
 - (b) the service entrance to a multiple occupancy building is located within the swimming pool enclosure; or
 - (c) a utility meter or furnace oil filler pipe is located within the swimming pool enclosure.
- 4.5. Other Fencing – other types of fences including retaining walls and deck guards to serve as swimming pool fences shall be constructed in accordance with the requirements of the Ontario Building Code.
 - 4.5.1 A fence of any other construction which provides an equivalent or greater degree of strength and safety and which meets the requirements of the Ontario Building Code may be approved by the Chief Building Official upon receipt of complete plans and specifications for such fence.
 - 4.5.2 Above ground swimming pools, where they are hard-sided, may have a fence as an integral part of their construction with an effective height of 1.5 m (5 ft) provided that it is of stable construction to resist entry and that a

suitable ground constructed enclosure surrounds the entrance ladder. Maximum vertical and horizontal spacing to be 100 mm (4 inches) in all cases.

4.6. Temporary Fence – a temporary fence shall consist of 1.52 mm (5 ft) high plastic mesh, having mesh not greater than 38 mm (1.5 in) and shall be permitted only during construction. It shall be replaced prior to the swimming pool being completed.

4.7. Barbed Wire / Electric Current – the use of barked wire or electrical current with respect to any fence enclosing a privately owned swimming pool is prohibited.

4.8. Lattice Work – the use of lattice work as part of the enclosing fence is prohibited.

GATES – ENTRANCES – SECTION 5

5.1. Gate – every gate shall be at least the same height as the fence of which it is a part, be supported by substantial hinges and be equipped with approved self-closing and self-latching hardware installed at the top on the swimming pool side of the gate.

5.2. Gate lock – every gate and every enclosure shall be closed and locked at all times except when the owner is in direct control and supervision of the swimming pool.

ENFORCEMENT – SECTION 6

6.1. The enforcement of this By-Law shall be under the authority of the Chief Building Official of the Township of Lanark Highlands. Any person found to be in contravention of any portion of this By-Law is guilty of an offence and is subject to a penalty as prescribed in the Provincial Offences Act.

6.2. If deemed an unsafe situation or an emergency, the Township may cause the swimming pool to be temporarily fenced or drained of all water until such time as the required fence has been completed. The cost of such work shall be borne by the property owner and collected in a like manner as taxes in accordance with Section 427 of the Municipal Act.

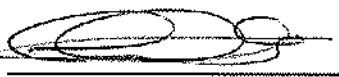
EFFECTIVE DATE – SECTION 7

7.1. This By-Law shall come into force and take effect with the passing thereof.

RESCINDMENT OF PREVIOUS BY-LAW – SECTION 8

8.1 All former By-laws pertaining to this matter, in particular By-law No. 2004-512 are hereby rescinded as of the passage of this By-law.

READ a FIRST, SECOND and THIRD TIME short this 10th day of May 2005.


Mayor – Lawrence McDermott


Clerk – Mary Kirkham

Swimming Pool Fence By-Law