

THE CORPORATION OF THE TOWNSHIP OF MONTAGUE

BY-LAW NO. 3010-2008

BEING a by-law to regulate pool enclosures within the Township of Montague;

WHEREAS the Municipal Act, 2001, S.O. 2001, as amended, provides that municipalities may regulate matters relating to the health, safety and well-being of its residents;

AND WHEREAS the Council of the Township of Montague deems it necessary to regulate pool enclosures within the Township of Montague;

NOW THEREFORE, the Council of the Corporation of the Township of Montague enacts as follows:

PART 1

DEFINITIONS & INTERPRETATION

1. For the purpose of this by-law, the following terms shall have the meanings indicated:
 - a) **“Four-Sided Fence”** means a fence or building wall that fully restricts a child’s access to the pool from the house. A four-sided fence that uses a building wall for one of its sides may include a window, but not a door;
 - b) **“Hydro-Massage Pool”** means a hot tub, Jacuzzi, whirlpool, spa or other similar product;
 - c) **“Person”** means the registered owner of any property; the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person’s own account or as agent or trustee of any other person, or who would so receive the rent if such land and premises were leased, and a lessee, tenant, mortgagee in possession, or person occupying or in charge of the property;
 - d) **“Pool”** means an excavation, structure or product, which is:
 - (i) located outdoors on private property;
 - (ii) capable of being used for the purposes of swimming, wading, paddling or bathing;
 - (iii) capable of holding water in excess of 0.75m (29½ inches) in depth at any point;
 - (iv) an open exposed water surface of 1m² (10.7 ft²) and includes a hot tub and/or spa pool and landscape pond meeting the above criteria, but for the purposes of this by-law does not include any pool which is:
 - (1) a pond or reservoir to be utilized for farming purposes or as part of a golf course;
 - (2) a pool owned by any public or governmental body, agency or authority, or;
 - (3) an existing natural body of water or stream;
 - (4) a privately owned stormwater management facility;
 - e) **“Self-Latching Device”** means a mechanical device or latch that is engaged each time the gate is secured to its closed position, which will not allow the gate to be re-opened by pushing or pulling, and which will ensure the pool enclosure gate remains closed until unlatched by either lifting or turning the device itself directly or by a key;
2. The requirements of this by-law are expressed in metric measurements. Any imperial measurements included in this by-law are approximate and are provided for convenience only.

PART 2

GENERAL PROVISIONS

Application of By-Law

3. This by-law shall apply to all pool enclosures constructed, or replaced, within the Township of Montague after the date of passing of this by-law.

4. a) Any existing pool enclosure, which has been inspected and approved by the Chief Building Official of the Township of Montague, prior to the passing this by-law, shall be deemed to comply.

b) Any existing pool enclosure which has been issued a permit, but has not been inspected and approved by the Chief Building Official prior to the passing of this by-law, will be given 90 days from the passing of this by-law to have the pool and enclosure inspected and approved as per the standards set out in By-law No. 1197-80, as amended.
5. In the event of any conflict between the provisions of this by-law and any provision of the Fence By-law, as may be amended or replaced from time to time, the provisions of this by-law shall prevail.
6. Every person shall maintain their pool and pool enclosure to the standards of this by-law.

PART 3

PROHIBITIONS

7. No person shall or cause a pool to be excavated, constructed or installed without first having obtained a pool permit from the Chief Building Official.
8. No person shall or cause a pool to be excavated, constructed or installed that is not completely enclosed by a pool enclosure in accordance with this by-law.
9. No person shall fill a pool with water or cause a pool to be filled with water without inspections and final approval from the Chief Building Official.
10. No person shall fill a pool with water or cause a pool to be filled with water or allow water to remain in a pool unless the pool is enclosed by a pool enclosure that meets the requirements of this by-law.
11. No person shall fail to ensure that:
 - (a) All gates forming part of the pool enclosure meet the standards of this by-law;
 - (b) All gates forming part of a pool enclosure are locked when the area is not in active use.
12. No person shall leave a hydro massage pool:
 - (a) Uncovered when not in active use;
 - (b) Unlocked when not in active use.
13. No person shall include barbed wire or a devise for projecting an electric current as part of a pool enclosure or gate.
14. No person shall place, pile, attach or lean any object or material against or near a pool enclosure so as to facilitate climbing of the pool enclosure, diminish the structural integrity of a pool enclosure or render the pool enclosure in non-conformity with the provisions of this by-law.

PART 4

APPLICATIONS FOR PERMITS

15. a) Every application for a pool permit shall be in a form specified by the Chief Building Official.

b) The fee for a pool permit shall be as set out in the Township of Montague by-law respecting building permits.

PART 5

STANDARDS FOR POOL ENCLOSURES

16. a) The owner of a privately-owned outdoor pool shall erect and maintain a pool enclosure that is designed to prevent climbing, restrict access to young children and satisfies the following standards:
1. **Height:** the pool enclosure shall extend from the ground to a height of not less than 1.22m (4 feet). Height shall be measured from the finished ground level on the outside (not the pool side) of the pool enclosure;
 2. **Opening and Materials:**
 - i) where the pool enclosure is constructed of chain link fence, the pool enclosure shall not have any openings having a diameter exceeding 38mm (1.5 inches);
 - ii) where the pool enclosure is constructed of wood lattice (diagonal members), the pool enclosure shall not have an opening diameter exceeding 38mm (1.5 inches);
 - iii) where the pool enclosure is constructed of vertical and horizontal members, if the horizontal structural members are greater than 114.3cm (45 inches) apart, the horizontal members can be located on the outside of the pool enclosure and the spacing between each vertical member shall not exceed 100mm (4 inches);
 - iv) where the pool enclosure is constructed of vertical and horizontal members, if the horizontal structural members are less than 114.3cm (45 inches) apart, the horizontal members must be located inside the pool enclosure and the spacing between each vertical member should not exceed 44.45mm (1.75 inches);
 3. **Ground Clearance:** the space at any point between the pool enclosure and the finished ground level and/or finished floor level must not exceed 50mm (2 inches) and the ground beneath the pool enclosure cannot be loose gravel or other material that can be easily removed so as to afford access under the pool enclosure;
 4. **Framing and Braces:** all horizontal structural members must be located inside of the pool enclosure as to prevent easy climbing; and
 5. **Location (access points):** any gate or entranceway forming part of a pool enclosure shall be at least 1.52m (5 feet) from the water's edge of the pool.
- b) Hydro massage pools are exempt if equipped with a locking, tightly-fitting, factory equipped cover.

GATES & OTHER ACCESS POINTS

Gates

17. Every owner shall ensure that every gate forming part of a pool enclosure:
- a) is constructed in accordance with the standards prescribed in Section 11 of this by-law;
 - b) is supported on substantial hinges, capable of supporting 90.72kg (200 lbs.) in body weight;
 - c) is equipped with a self-closing device;
 - d) is equipped with a self-latching device that is located at least 1.22m (4 feet) above the finished floor level and/or finished ground level, and is located on the inside of the pool enclosure;
 - e) is equipped with a lock located on the inside of the pool enclosure and;
 - f) does not have any structural member on the outside of the pool enclosure that would facilitate climbing of the gate.

Entrances through Buildings

18. When a wall or portion thereof of any building located on the same property as the pool forms part of the pool enclosure, no entrances to the enclosed pool area are permitted through such wall, unless a window, which provides access from the building to the pool area, is a child-resistant window that limits access of young children;

TEMPORARY FENCE DURING CONSTRUCTION

19. The owner shall ensure that temporary fencing meeting the requirements of this section is in place during all phases of construction of the pool such that unauthorized access to the site is prevented. Temporary fencing shall be of 1.22m (4 feet) high snow fence, or such other fencing material with similar visibility, height and rigidity as may be approved by the Chief Building Official in writing, and shall be securely attached at any opening when the area is left unattended.
20. If a pool enclosure is damaged and requires replacement or repair, water may remain in a pool enclosed by a temporary pool enclosure with the permission in writing of the Chief Building Official pending the replacement or repair of the pool enclosure, subject to any time limits that may be imposed by the Chief Building Official.

PART 6

SPECIAL PROVISIONS

Above-Ground Pools

21. The vertical walls of an above-ground pool can be used as part of a pool enclosure provided that the vertical walls are at least 1.22m (4 feet) in height and do not possess any horizontal members that may facilitate climbing;
22. The ladder area, which provides access to the above-ground pool, must be enclosed by a pool enclosure as defined in this by-law;

Temporary Pools

23. If a pool enclosure permit has been obtained with respect to the pool enclosure for a temporary pool, the temporary pool may be reinstalled and refilled with water without additional permits or inspections provided there have been no alterations to the pool enclosure.

PART 7

ADMINISTRATION & ENFORCEMENT

24. This by-law shall be administered by the Chief Building Official and enforced by the Chief Building Official and/or the Municipal Law Enforcement Officer for the Township of Montague.

PENALTY

25. Every person who contravenes any provision of this by-law is guilty of an offence, and is liable upon conviction to a fine under the *Provincial Offenses Act*.

AMENDMENT TO TOWNSHIP OF MONTAGUE FENCING BY-LAW

26. That By-law 1197-80, a by-law to regulate the height, description and location of fences in the Township of Montague be amended by the following:
 - i) That clause 2 a) be amended by deleting the words “, or for enclosing privately owned outdoor swimming pools”.
 - ii) That clause 2 c) be deleted in its entirety and that 2 d) be renumbered as 2 c).
 - iii) That Section 4 be deleted in its entirety and that Sections 5, 6 and 7 be renumbered as 4, 5 and 6 respectively.

DATE OF IMPLEMENTATION

27. This by-law shall become effective upon the date of enactment.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 6th DAY OF MAY 2008.

REEVE

CLERK