

BY-LAW NUMBER 2018 - 59

THE CORPORATION OF THE TOWNSHIP OF RIDEAU LAKES

BEING a By-Law to regulate enclosures around privately-owned outdoor swimming pools;

WHEREAS Section 11(3) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, provides that by-laws may be passed respecting structures, including fences and signs;

AND WHEREAS Section 11(2) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, authorizes a municipality to regulate matters related to health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Section 391(1) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, authorizes a municipality to impose fees related to the requirements of a by-law;

AND WHEREAS the Council of the Corporation of the Township of Rideau Lakes deems it advisable to pass a By-Law to regulate enclosures around privately owned outdoor swimming pools to ensure the safety of the public;

AND WHEREAS Section 8(3) of the *Municipal Act 2001*, S.O.2001, Chapter 25, as amended, authorizes a municipality to regulate or prohibit in respect of matters within their jurisdiction, including fences, and to require persons to obtain permits and provide for a system of obtaining permits in relation to those matters;

AND WHEREAS the Council of the Corporation of the Township of Rideau Lakes deems it advisable to require the owners of privately owned outdoor swimming pools to erect and maintain an enclosure around such pool and to obtain a permit to do so;

AND WHEREAS the Council of the Corporation of the Township of Rideau Lakes deems it necessary to establish user fees and charges related to permits for the enclosure of swimming pools;

NOW THEREFORE the Corporation of the Township of Rideau Lakes enacts the following:

Section 1 Title

This by-law may be cited as the "Swimming Pool Enclosure By-Law"

Section 2 Scope of By-Law

(1) Lands Subject to By-Law

The provisions of this by-law shall apply to all lands within the geographic boundaries of the Corporation of the Township of Rideau Lakes.

(2) Conformity with By-Law

No fences and/or gates around privately owned outdoor swimming pools within the Municipality shall be erected, maintained or structurally altered except in conformity with the provisions of this by-law.

(3) Compliance with Other Restrictions and By-Laws

This by-law shall not reduce or mitigate any restrictions and/or by-laws lawfully imposed by a governmental authority having jurisdiction to make such restrictions. The most restrictive of all the regulations shall prevail.

Section 3 Definitions

“Compliant Safety Cover” – shall mean a manufacturer approved rigid cover on an outdoor hot tub, whirlpool or spa, which is permanently attached to the structure.

“Enclosure” – shall mean a fence, wall or other structure, including doors and gates.

“Fence” – shall mean a barrier of chain link construction, vertical board construction, other materials and construction that will provide an equivalent degree of safety, or combination thereof.

“Gate” – shall mean any entrance forming part of an enclosure of construction and height equivalent to or greater than that of the required fence.

“Owner” – shall mean the registered owner of the land or a lessee, mortgagee in possession, or the person with care and control over the property.

“Responsible Person” – shall mean a person who is able to act appropriately in an emergency situation and is ultimately able to exercise average care, skill, and judgement in conduct.

“Swimming Pool” – shall mean any body of water located on privately owned property, contained wholly or in part by a fixed structure, in which the depth of water is 915 millimetres (36 inches) or greater and is intended for use and capable of being used for swimming, diving, wading or bathing. For greater clarity this definition does not include soft sided receptacles which are temporary or mobile in nature, and commonly constructed of plastic and/or inflatable type materials and/or any structures commonly referred to as ‘kiddie pools’. The definition also does not include landscaping which incorporates water features such as fish ponds, reflecting pools, streams or fountains.

“Swimming Pool Enclosure Permit” – shall mean a permit issued by the Township's Chief Building Official or Deputy Chief Building Official for an enclosure around a swimming pool.

“Temporary Construction Fence” – shall mean a fence consisting of a 1.2 metres (4 feet) high plastic mesh fence having mesh openings not greater than 38 millimeters (1.5 inches), with a steel T-bar post every 3 metres (10 feet) maximum and a 9 gauge galvanized steel wire located at the top and bottom of such fence.

Section 4 Enclosure Requirements

(1) Filling of Swimming Pool

No person shall place water in or cause water to be placed in a swimming pool, or allow water to remain therein unless an enclosure completely enclosing the entire swimming pool area has been constructed in accordance with this By-Law and is being maintained at all times in good condition.

(2) Entrances

All entrances to the swimming pool area which form part of the swimming pool enclosure, whether they are doors, windows or gates, shall be secured at all times except when the swimming pool is being supervised by a responsible person.

(3) Temporary Construction Fence

If the permanent enclosure is not completed as per the requirements of this By-law prior to the installation of the swimming pool, a swimming pool under construction shall be enclosed with a temporary construction fence as detailed herein. The swimming pool is not to be used or filled until the temporary construction fence has been replaced with a permanent enclosure.

(4) Minimum Height of Enclosure

The height of a swimming pool enclosure shall be a minimum of 1.2 metres (4 feet). The height shall be measured from all points along the finished grade or other abutting features to the top of the enclosure.

(5) Location of Enclosure

- a) A swimming pool enclosure shall be located not less than 1.2 metres (4 feet) from the nearest inside wetted surface of the swimming pool wall.
- b) A swimming pool enclosure shall not be located closer than 1.2 metres (4 feet) to any feature that would cause the difference in the height from the top of the feature to the top of the enclosure to be less than 1.2 metres (4 feet).

(6) Clearance of Enclosure to Grade

A maximum space of 50 millimetres (2 inches) is permitted between the bottom of a swimming pool enclosure and the finished grade.

(7) Attachments to Exterior of Enclosure

No member or attachment that could facilitate climbing shall be permitted on the exterior face of a swimming pool enclosure between 100 millimetres (4 inches) and 1.2 metres (4 feet) above grade.

(8) Chain Link Fencing

- a) Mesh size shall not be greater than 38 millimetres (1.5 inches) consisting of 12 gauge galvanized steel wire, or of 14 gauge steel wire covered with vinyl or other

approved plastic, which would yield a total thickness equivalent to 12 gauge steel wire.

b) Galvanized steel supporting posts shall be spaced at a maximum of 3 metres (10 feet) and extended at least 1.2 metres (4 feet) below grade or pinned to bedrock or embedded in a concrete base that is not susceptible to frost heaving.

c) End posts and corner posts shall be a minimum of 50 millimeters (2 inches) in diameter and encased in a minimum 150 millimeters (6 inches) of concrete to a minimum depth of 100 millimeters (4 inches) below grade or pinned to bedrock or embedded in a concrete base that is not susceptible to frost heaving.

(9) Vertical Board and Vertical Fencing

a) Vertical boarding shall be a minimum of 25 millimetres (1 inch) thick nominal attached to a top and bottom rail in such a manner as to not facilitate climbing from the outside. Such vertical boards shall not be less than 100 millimeters (4 inches) wide nominal and must be spaced not more than 100 millimetres (4 inches) apart.

b) Fencing shall be supported by posts at least 100 millimetres x 100 millimetres (4 inches x 4 inches) nominal, spaced not more than 2.4 metres (8 feet) apart. Such posts shall extend at least 1.2 metres (4 feet) into the ground and be securely embedded therein. The portion of the post below grade shall be treated with an approved wood preservative or be of pressure treated wood.

c) Top and bottom rails for vertical board fences shall be at least 50 millimetres x 100 millimetres (2 inches x 4 inches) nominal dimensions.

d) Except for top and bottom rails used to secure vertical boards, horizontal boards or rails shall not be used as this would make the enclosure climbable.

(10) Swimming Pool Walls as Enclosure

The provision of this By-Law requiring the erection of a fence may be omitted if the height of the swimming pool walls are more than 1.2 metres (4 feet) above the grade measured from the ground abutting such wall at all points around the pool, walls are not climbable and furthermore, each entrance to the pool is protected by a gate at least 1.2 meters (4 feet) high and having a self-closing and self-latching device at the top of the gate on the inside of the enclosure. The gate shall comply with provisions of this By-Law. If pool steps or ladders are used, a locking device to prevent climbing on the step or ladder shall be used to achieve the equivalent level of safety as the required gate.

(11) Accessory Structures in Proximity to Enclosure

Accessory buildings, accessory structures and pool equipment, including pumps and filters, that could be used to assist in gaining access to the pool shall be located a minimum of 1.2 metres (4 feet) from an approved enclosure to reduce access/climbing potential, unless they are located under a deck which has been enclosed in accordance with the provisions of this By-Law.

Section 5 Gate Requirements

(1) Construction and Height

Gates shall be of construction and height equivalent to or greater than that of the required swimming pool enclosure.

(2) Support and Self-Latching Devices

Gates shall be supported on substantial hinges, shall be self-closing and shall be equipped with a self-latching device placed at the top and on the inside of the gate.

- a) Additional measures shall be required to ensure that the self-latching device is not reachable from the exterior of the gate unless the self-latching device is located more than 1.2 meters (4 feet.) above finished grade.

(3) Access

The owner of every swimming pool shall ensure that every gate or door providing access to the swimming pool shall be secured at all times when a responsible person is not present and supervising the swimming pool.

Section 6 Compliance with Part 8 of the Ontario Building Code

A swimming pool and enclosure, and associated decks, pumps, etc. shall be located in compliance with Part 8 requirements of the Ontario Building Code. This includes a minimum of 1.5 metres (5 feet) from a septic tank and 5 metres (17 feet) from the distribution piping of a leaching bed. These distances shall be increased when required by Sentence 8.7.4.2. (11).

Section 7 Outdoor Hot Tubs, Whirlpools and Spas

Structures commonly referred to as hot tubs, whirlpools and spas that are located outdoors need not comply with the enclosure requirements of this By-Law provided the structures are secured with a compliant safety cover that is securely fastened to prevent access at all times when the structure is not in use. The safety cover acts as the enclosure.

Section 8 Required Information

Information, such as plans and drawings, detailing the installation of a swimming pool enclosure shall be provided in accordance with Schedule 'A' forming part of this By-Law.

Section 9 Compliance, Enforcement Orders and Penalty Provisions

(1) Compliance

An Officer or inspector appointed by the Municipality may enter onto any lands, in accordance with Township Policy, at any reasonable time without a warrant for the purposes of determining compliance with this By-law or with an Order issued pursuant to the By-law as per Section 436(1) of the *Municipal Act 2001*, S.O.2001, Chapter 25, as amended.

(2) Enforcement Orders

A) Where an Officer or inspector of the Municipality determines that a contravention of this By-law has occurred, the Officer or inspector may make an Order as per Section 444(1) or 445(1) of the *Municipal Act 2001*, S.O.2001, Chapter 25, as amended, requiring the owner of the property on which the contravention occurred, to:

- (a) discontinue the contravening activity;
- (b) require the pool to be immediately emptied of water; or
- (c) carry out such work, and if applicable under such conditions, as may be required to correct the contravention and to bring the enclosure into conformity with the requirements of this By-law.

B) Where, in the opinion of the officer or inspector of the Municipality, an enclosure is in a dangerous or defective condition, the officer or inspector of the Municipality may make an order requiring the owner of the property upon which the enclosure is located to place the enclosure in a proper state of repair immediately or within such time as specified in the order.

(3) Penalties

A) Every person who contravenes any provision of this By-Law is guilty of an offence and is liable upon conviction to a fine of not more than five thousand (\$5,000.00) dollars, pursuant to the Provincial Offences Act, R.S.O. 1990, c.P.33.

B) The municipality shall have the right to rectify the contravention and recover costs for the amount spent to install or repair an enclosure as per as per Section 446(3) of the *Municipal Act 2001*, S.O.2001, Chapter 25, as amended, if an Order is not complied with within the timeframe specified on the Order, or where no time is specified, within a reasonable time.

Section 10 Miscellaneous

(1) Fees

The permit fee for swimming pool enclosure installations shall be in accordance with the appropriate Fees By-Law.

(2) Maintenance

All enclosures are to be maintained in a proper state of repair so that such enclosures do not become unsafe, structurally unsound, unsightly, dangerous or out of conformity with the requirements of this By-Law;

(3) Validity

If any section, clause or provision of this By-law is for any reason declared by Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all the remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall be declared to be invalid.

(4) Interpretation

Where measurements have been given, the requirement of the By-Law shall be the metric measurement. Imperial measurements are only provided to assist with general interpretation of the By-Law.

(5) Liability

The provisions of this By-law shall not be construed as relieving or limiting the responsibility or liability of any person who erects, displays, causes, permits or allows to be erected or displayed, any swimming pool, for personal injury including injury resulting in death, or property damage resulting from such installation or from the employees, contractors or sub-contractors, in the construction, erection, maintenance, display alteration, repair or removal of any swimming pool erected in accordance with a permit which is issued hereunder. Likewise, the provisions of this By-law shall not be construed as imposing on the Municipality, its officers, employees, servants and agents, any responsibility or liability whatsoever by reason of the approval of or issuance of a permit for any swimming pool or removal of any swimming pool.

(6) Effective Date

This By-law shall come into force and take effect immediately upon the day of final passing of this By-law. For greater clarity, this By-Law shall not apply to any outdoor privately-owned swimming pool that legally existed on the day of passing of this By-Law.

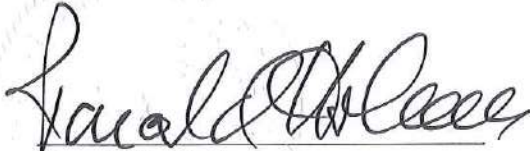
(7) Repeal

Swimming Pool By-Law 2004-78, and amendments thereto, are hereby repealed.

Section 11 Administration

This By-Law shall be administered and enforced by the Township's Chief Building Official, Deputy Chief Building Official and/or the Township's By-Law Enforcement Officer.

Read a first and second time this 26th Day of November, 2018



Ronald E. Holman
Mayor



Mary Ellen Truelove
Clerk

Read a third time and finally passed this 1st day of JANUARY, 2019



Aric Hoogenboom
Mayor



Mary Ellen Truelove
Clerk

SCHEDULE 'A' to By-Law #2018 - 59

REQUIRED INFORMATION

Section 1 Application Form

A complete application form shall be submitted to the Development Services Department with every request for a permit. Applicants shall use the established application form through the Development Services Department.

Section 2 Plot Plan

A plot plan drawing shall be provided and shall include (at a minimum):

- Property boundaries and dimensions, including the high water mark (if applicable);
- Location, size and type of all existing and proposed buildings and structures on the subject property, indicating the distance of the buildings and structures from the front, rear and side lot lines and distance between existing and proposed buildings and structures;
- Location of existing or proposed septic system and drilled/dug well on site;
- Location, size and type of the proposed swimming pool and enclosure thereto, indicating the distance between the proposed swimming pool and enclosure and existing and proposed buildings and structures and distance from property lines, right-of-ways, high water mark, septic system, well;
- The location of any proposed decks indicating the distance of the proposed deck from all property lines, right-of-ways, high water mark, septic system, well;
- The location of any swimming pool pumps and related equipment indicating the distance of the equipment from the swimming pool and property lines; and
- The location of backwash discharge and disposal.

Section 3 Construction Plans/Details

The applicant shall provide:

- A side view of a section of proposed and/or existing chain link fence with sufficient details thereto to ascertain compliance with Section 2.9 of this By-Law.

- A side view of a section of proposed and/or existing wood fence with sufficient details thereto to ascertain compliance with Section 2.10 of this By-Law
- A side view of proposed and/or existing decks with sufficient details to ascertain compliance with the Ontario Building Code Regulations respecting the construction of decks and guard requirements thereto. All Guards to conform to Ontario Building Code Supplementary Standard SB-7, Engineer Design or have a Canadian Construction Materials (CCMC) approval or Building Materials Evaluation Commission (BMEC) approval.

Section 4 Other Applicable Law

(1) Planning / Zoning Review

Before a permit can be issued, the required plot plan shall be subject to planning/zoning review to ascertain whether or not the proposed swimming pool installation will comply with the applicable zoning regulations.

(2) Electrical Safety Authority

It is the applicant's responsibility to obtain a permit from the Electrical Safety Authority for any electrical work related to the swimming pool installation.

(3) Conservation Authority

Before a permit can be issued the applicant may be required to forward the plot plan to the relevant Conservation Authority which may require comment/approval from the Conservation Authority.