

CORPORATION OF THE MUNICIPALITY OF MARMORA AND LAKE
BYLAW NUMBER 2015-041

Being a bylaw to regulate pool fences
on lands in the Municipality of Marmora and Lake.

WHEREAS the Council of the Corporation of the Municipality of Marmora and Lake deems it desirable to pass a bylaw to provide for the regulation of pool fences.

AND WHEREAS the Municipal Act, 2001, S.O. 2001 c. 25 Section 10(2) authorizes Council to enact a respecting health, safety and well-being of persons, protection of persons, and property and structures including fences;

AND WHEREAS the Municipal Act, 2001, S.O. 2001 c. 25 Section 425 authorizes the Municipality of Marmora and Lake to pass By-law providing that a person who contravenes a Bylaw of the Municipality of Marmora and Lake passed under that Act is guilty of an offence;

AND WHEREAS the Municipal Act, 2001, S.O. 2001 c. 25 authorizes the Municipality of Marmora and Lake, amongst other things, to delegate its authority, to impose fees and charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

AND FURTHER WHEREAS the Municipal Act empowers a municipal council to pass a Bylaw in regard to the issuance of permits for the construction of such fence:

AND THEREFORE the Council of the Corporation of the Municipality of Marmora and Lake enacts as follows:

1.1 This Bylaw maybe cited as the "Pool Fence Bylaw".

2.0 DEFINITIONS:

2.1 "Above ground privately-owned swimming pool" means a structure which is capable of retaining a body of water located outdoors on privately-owned property in which the depth at any point can exceed 30 cm (12 inches) and is used or is capable of being used for swimming, wading, diving or bathing and the outside wall of side pool is elevated at least 1.22 metres (4 Feet) above the grade abutting such wall.

2.2 “Backflow preventer” Means the use of an air gap to prevent backflow or,

- (a) An atmospheric or pressure type vacuum breaker, or
- (b) A device that is certified by CSA, ULC or similar

2.3 “Building inspector” means the Chief Building Official and any Building Inspectors appointed by Bylaw of Council of the Corporation of the Municipality of Marmora and Lake pursuant to the Building Code Act 1992 S.O. 1992, Chapter 23, as amended.

2.4 “Enclosure” means a fence, wall or other structure, including gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

2.5 “Gate” means an entrance barrier closing the opening to a pool area.

2.6 “Owner” means the registered title holder or any person in possession of privately-owned property.

2.7 “Person” including an owner, lessee, tenant or other person in possession of property upon which a privately-owned outdoor swimming pool is located.

2.8 “Privately-owned outdoor swimming pool” means any body of water, hot tub, blow up pool, temporary pool, pool or similar, located outdoors on privately-owned property in which the depth at any point can exceed 30 cm (12 inches) and is used or is capable of being used for swimming, wading, diving, or bathing, but does not include above ground privately-owned swimming pools.

2.9 “Privately-owned property” means any property located within the Municipality Of Marmora and Lake and the said property is not owned by the Corporation of the Municipality of Marmora and Lake.

2.10 “Pool area” means that the area of land abutting the pool extending from the edge of said pool a distance of 1.2 metres (4 feet).

3.0 ENCLOSURE

3.1 Any owner of land on which a privately-owned outdoor swimming pool is located or erected, or proposed to be located or erected, shall erect and maintain, in good order an enclosure around the entire pool area in accordance with the provisions of this Bylaw.

3.2 No person shall fill or partially fill a privately-owned outdoor swimming pool with water or allow water to remain therein unless the required enclosure prescribed by this Bylaw has been provided.

3.3 Any fence to enclose a pool area shall extend from grade level to a minimum vertical height of:

(a) 1.22 metres (4 feet) in the case of a privately-owned outdoor swimming pool serving a detached or semi-detached dwelling unit or a multiple family development of not more than four dwelling units.

(b) 1.83 metres (6 feet) in the case of a privately-owned outdoor swimming pool serving a multiple family development containing more than four dwelling units; or a commercial development, such as a hotel, motel, swimming pool sales display or a club.

3.4 The wall of a building may form part of the required enclosure, except where;

(a) any building entrance is located within the pool enclosure; or

(b) a utility meter or furnace oil filler pipe is located within the pool enclosure.

3.5 The required enclosure shall have no attachments on the exterior face that might facilitate climbing, including braces, planters, pool pumps, ect.

4.0 FENCE CONSTRUCTION

4.1 A fence or its equivalent, forming part of a pool enclosure;

4.1.1 Shall be of vertical boarded wood construction, chain link construction or of other materials and construction as hereinafter provided for;

4.1.2 If of chain link construction, shall

(a) be not greater than 50mm (2 inch) diamond mesh.

(b) be constructed of galvanized steel wire not less than No. 12 gauge or of a minimum of No. 14 gauge steel wire with a vinyl or other approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire.

(c) be supported by at least 38 mm (1.5 inch) diameter galvanized steel posts each covered by a min. 51 mm (2 inch) of concrete from grade to a minimum of 0.91 metres (3 feet) below grade such post to be spaced not more than 3.0 metres (10 feet) apart. Top and bottom horizontal rails shall be provided of 32 mm (1.25 inch) minimum diameter galvanized steel, except that 6 mm (0.25 inch) minimum diameter galvanized steel tension wire may be substituted for a bottom horizontal rail. A vinyl or other approved coating may be substituted for the galvanized coating;

4.1.3 If of wood construction, shall;

(a) have the vertical boarding attached to supporting members, all of which are arranged in such a manner so as not to facilitate climbing from the outside. Such vertical boards shall be no less than 25 mm x 102 mm (1 inch x 4 inch) nominal dimensions spaced not more than 76.2 mm (3 inch) apart.

(b) be supported by minimum of 102 mm (4 inch) square or diameter wooden posts, nominal dimensions, spaced not more than 2.5 metres (8 feet) on centres securely embedded to a minimum of 0.91 metres (3 feet) below grade. That portion of the wood post below grade shall be treated with a wood preservative if the same is not "pressure treated". Top and bottom horizontal rails shall be provided of 51 mm x 102 mm (2 inch x 4 inch) minimum nominal dimension.

4.1.4 Shall include no part consisting of barbed wire or have similar dangerous characteristics and no device for projecting an electrical current through the fence.

4.1.5 If of any other material and construction, such alternate fencing shall provide an equivalent degree of safety as that provided by a chain link fence or wood board fence. And where alternate fencing is proposed, the Chief Building Official shall be the sole approving authority.

5.0 GATES AND ENTRANCE TO THE POOL AREA

5.1 Gates which form a part of the fence around a privately-owned outdoor swimming pool shall be.

(a) equivalent to that of such height and of such construction equivalent to that required for the fence;

(b) supported on substantial hinges;

(c) self-closing and self-latching with the latching device at the top of and on the inside of the gate or a minimum of 1.07 metres (3 feet 6 inch) above grade. Where two gates are provided adjacent to one another, one gate shall be permanently fixed in the closed position or a permanent centre post shall be provided for the gate to close against and latched.

5.2 Every person in possession of and lands on which a privately-owned outdoor swimming pool or an above ground privately-owned swimming pool is located shall ensure that all entrances to the pool area which form part of the swimming pool enclosure whether they be windows, gates or other openings to the pool area; shall be kept locked at any time when a responsible person is not present and supervising the pool.

6.0 PERMITS

- 6.1 No person shall excavate for, erect or construct a pool or a fence around a privately-owned outdoor swimming pool unless and until a permit therefore has been issued for a prescribed fee outlined in the annual fee's Bylaw for the Municipality of Marmora and Lake. Plans submitted with an application to construct or erect such fence shall show the location of the swimming pool in relation to the property boundary and to adjoining buildings and shall provide full details of all fencing required to be erected.

7.0 ABOVE GROUND SWIMMING POOLS

- 7.1 Notwithstanding anything contained in this Bylaw an enclosure fence shall not be required around and above ground privately-owned swimming pool where the outside wall of such pool is elevated at least 1.22 metres (4 feet) above the grade of the ground abutting such walls.
- 7.2 Each and every entrance to an above ground pool shall be protected by a gate at least 1.22 metres (4 feet) high and have a self-closing and self-latching device with a latching device at the top of and on the inside of the gate.
- 7.3 Where two gates are provided adjacent to one another, one gate shall be permanently fixed in the closed position or a permanent continued post shall be provided for both the gate to close against and latch.

8.0 PLUMBING FACILITIES

- 8.1 Where a swimming pool is connected to a plumbing system, the potable water supply to the pool shall be protected by a backflow preventer and the drain of the swimming pool shall be protected from the backup of sanitary sewage into the pool.
- 8.2 Any hose bib used to fill a pool shall be protected by a backflow preventer.

9.0 PENALTIES

- 9.1 Every person who contravenes any provision of this Bylaw is guilty of an offence.
- 9.2 Each and every day that a person fails to comply with this Bylaw is considered a separate and different offence.

9.3 Every person other than a corporation who fails to comply with any provision of this by-law or an order or other direction made under this Bylaw is guilty of an offence and, upon conviction, is liable to a fine of not more than \$10,000 for the first offence and \$25,000 for a second or subsequent offence.

9.3 Every corporation that fails to comply with any provision of this Bylaw or an order or other direction made under this Bylaw is guilty of an offence and, upon conviction, is liable to a fine of not more than \$50,000 for a first offence and not more than \$100,000 for a second or subsequent offence.

9.4 A person found guilty of an offence shall be liable to penalty pursuant to the provisions of the Provincial Offences Act, as amended

10.0 SEVERABILITY

10.1 If any section or sections of this Bylaw or part thereof, is found in any court of law to be illegal or beyond the power of the Municipality to enact, such section or sections or part thereof shall be deemed to be severable and all other section or parts of the Bylaw shall be deemed to be separate and independent thereof and to be enacted as such.

11.0 APPLICATION OF THE BYLAW

11.1 This Bylaw and the obligations thereunder, as it would pertain to any owner of land on which a privately-owned outdoor swimming pool is located or erected, or any person who fills, or partially fills, a privately-owned outdoor swimming pool with water, shall specify obligations as it would pertain to the construction and maintenance of fences and enclosures that are erected on any date after passing of this bylaw.

11.2 the obligation to appropriately maintain an enclosure as required by this Bylaw shall apply to all enclosures erected or placed on any property within the Municipality of Marmora and Lake on any data after the passing of this Bylaw.

11.3 The provisions of this Bylaw shall not apply to a fence or enclosure erected prior to the passing of this Bylaw, provided that such fence or enclosure complies with the provisions of Bylaw 2003-28, as amended, and that such fence or enclosures are maintained in accordance with the provisions of Bylaw 2003-28, as amended.

12.0 OPERATION OF BYLAW NUMBER 2003-28

12.1 Bylaw 2003-28 of the Corporation of the Municipality of Marmora and Lake, is hereby repealed.

13.0 FORCE AND EFFECT

13.1 This Bylaw shall come into force and take effect immediately upon the passing there of.

READ A FIRST TIME this 15th day of September, 2015
READ A SECOND TIME this 15th day of September, 2015
READ A THIRD TIME this 15th day of September, 2015

PASSED IN OPEN COUNCIL this 15th day of September, 2015



Mayor



Clerk