

OFFICE CONSOLIDATION

This is a consolidation of the Town's by-law relating to fences enclosing privately owned outdoor swimming pools being By-law 96-24 as amended by By-law 96-68 and 2003-83. This is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of the by-law. Official versions of all by-laws can be obtained from the Legislative Services section by calling (905) 584-2272. If there are any discrepancies between this consolidation and By-laws 96-24, 96-68 and 2003-83 the By-laws shall prevail.

THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NO. 96-24

Being a by-law relating to fences enclosing
privately owned outdoor swimming pools

WHEREAS section 210, paragraph 30 of the *Municipal Act (R.S.O. 1990, Chap. M.45)*, as amended, provides that by-laws may be passed by councils of local municipalities requiring 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 persons from placing water in privately-owned outdoor 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 permit certifying approval of such plans without which permit no privately-owned outdoor swimming pool may be excavated for or erected and for authorizing the refusal of a permit for any such fences or gates that if erected would be contrary to any by-law of the municipality.

AND WHEREAS section 220.1(2) of the *Municipal Act* provides that despite any Act, a municipality, by its council, may pass by-laws imposing fees or charges on any class of persons, for services or activities provided or done by the municipality.

NOW THEREFORE the Council of The Corporation of the Town of Caledon ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

“chief building official” means the chief building official appointed by the Council for The Corporation of the Town of Caledon

“finished grade” means the level of the proposed or finished ground adjoining the pool

“lot” means a parcel of land which is capable of being legally conveyed in accordance with the provisions of the **Planning Act**, as amended

“owner” includes lessee, tenant, occupant or person apparently in possession of all or part of the property on which a privately-owned outdoor swimming pool is located

“perimeter” means the water’s edge of the privately-owned outdoor swimming pool

“privately-owned outdoor swimming pool” includes a body of water

(1) which is:

- (a) located outdoors above ground or inground on privately-owned property,
- (b) contained in whole or in part by artificial means,
- (c) designed to contain water to a depth of 24 inches or more,
- (d) used or maintained or intended to be used or maintained, principally for swimming, diving or bathing by humans, and

- (2) which is not a pond located on land zoned agricultural by the applicable zoning by-law and used for agricultural purposes

“service entrance” means that entrance into a building which is normally used by persons entering such building for the purpose of delivering goods or rendering maintenance service as opposed to the main or principal entrance

PROHIBITION

- 2 (1) No person shall place water, or permit water to be placed, or permit water to remain in a privately-owned outdoor swimming pool unless a fence has first been erected around such pool in accordance with the requirements of this by-law.
- (2) No person shall construct a fence around a privately-owned outdoor swimming pool without the prior issuance of a permit therefor by the chief building official.

FENCE SPECIFICATIONS

3. Every fence shall:
 - (1) have a height of not less than 4 feet above finished grade,
 - (2) be constructed of chain link, wood, metal, masonry or a combination of these materials,
 - (3) not encroach into the front yard as the front yard is determined by the provisions of the applicable zoning by-law, and
 - (4) be erected not less than 4 feet from the perimeter of the privately-owned outdoor swimming pool.
4. When the fence is a chain link fence, it shall be constructed in accordance with the following specifications:
 - (1) the fence shall be constructed of medium grade pipe;
 - (2) the fence shall commence no more than 3 inches above the finished grade;
 - (3) the fabric shall be of 12 gauge galvanized material with 1 ½” inch maximum mesh;
 - (4) the line posts shall be:
 - (a) galvanized,
 - (b) capped,
 - (c) a minimum of 1 1/16” outside diameter, and
 - (d) set in concrete to 42 inches below finished grade;
 - (5) the terminal posts shall be:
 - (a) galvanized,
 - (b) capped,
 - (c) a minimum of 1 7/8” outside diameter, and
 - (d) set in concrete to 42 inches below finished grade;
 - (6) the maximum distance between every post shall be 10 feet;
 - (7) the top rail shall be:
 - (a) galvanized, and
 - (b) a minimum of 1 5/16” outside diameter;

- (8) the wire along the bottom of the fence shall be:
 - (a) galvanized, and
 - (b) a minimum of 9 gauge thickness.
5. When the fence is a wood fence, it shall be constructed in accordance with the following specifications:
 - (1) it shall be constructed of wood which is:
 - (a) pressure treated,
 - (b) redwood or cedar, or
 - (c) any other type of wood which is naturally resistant to weathering over a prolonged period of time;
 - (2) the line posts shall be:
 - (a) a minimum of 4 inches by 4 inches in cross-section, and
 - (b) in ground or set in concrete to a minimum of 42 inches below finished grade;
 - (3) the maximum distance between every post shall be eight feet;
 - (4) between the posts horizontal frame members supporting vertical panels shall be installed;
 - (5) the horizontal frame members shall be a minimum of 2 inches by 4 inches and not less than 4 feet apart;
 - (6) the vertical panels shall be erected at a minimum of 3 inches above the finished grade; and
 - (7) the spacing between the vertical panels shall be a minimum of $\frac{1}{2}$ inch and a maximum of $3 \frac{1}{2}$ inches.
6. Where the fence is a metal fence and not a chain link fence, it shall be constructed in accordance with the following specifications:
 - (1) it shall be constructed of wrought iron, steel, aluminum or other similar metal material;
 - (2) the vertical posts shall be:
 - (a) a minimum of 12 gauge in thickness,
 - (b) capped,
 - (c) a minimum $1 \frac{1}{2}$ inch square tube,
 - (d) set in concrete to a minimum of 42 inches below finished grade, and
 - (e) a maximum distance of 8 feet apart;
 - (3) the horizontal bars shall be:
 - (a) a minimum of 18 gauge thickness,
 - (b) a minimum 1 inch square tube, and
 - (c) spaced not less than 4 feet apart;
 - (4) the vertical bars shall be:
 - (a) a minimum of 18 gauge thickness,
 - (b) a minimum $\frac{1}{2}$ inch round or square tube,
 - (c) spaced no more than $3 \frac{1}{2}$ inches apart, and
 - (d) located at no less than 3 inches above the finished grade.
7. Where the fence is constructed of masonry materials, it shall be constructed in accordance with the following specifications:
 - (1) it shall be of solid construction or masonry panels;

- (2) it shall be constructed on a poured concrete footing located at a minimum depth of four feet below finished grade;
 - (3) it shall comply with the provisions of the *Building Code Act* and Ontario Building Code; and
 - (4) all openings in the masonry panels shall not exceed 3 ½ inches.
8. No part of any fence or gate shall consist of barbed wire or possess equivalent dangerous characteristics.
9.
 - (1) When a wall of a building forms part of the enclosure around a privately-owned outdoor swimming pool, a main or service entrance to the building shall not be located within the enclosure.
 - (2) Notwithstanding subsection 9(1), a service entrance to the building may be located within the enclosure where:
 - (a) the main entrance and all exterior service meters and intakes are located outside the enclosure, and
 - (b) a sign is erected and maintained directing all service personnel to use the main entrance.
10. No person shall install or permit to be installed a privately-owned outdoor swimming pool which adversely affects the drainage of the lot upon which it is installed or the drainage of any surrounding lot.

GATES

11. Every fence shall have a gate:
 - (1) constructed of chain link, wood, metal materials or precast lightweight concrete panels,
 - (2) with a minimum height of 48 inches above finished grade and a maximum height equal to the height of the fence,
 - (3) supported by hinges, and
 - (4) equipped with a self-closing, self-latching device located on the inside of the gate at or near the top of the gate.
12. The owner, shall, at all times, maintain the self-closing, self-latching device on the gate in good repair.
13. The gate shall be kept closed and locked at all times when a competent person is not present supervising the swimming pool.

PERMIT APPLICATION

14. A person requiring a permit shall file an application in writing
 - (1) describing the land which is the subject of the application in a way that will readily identify and locate the site and the lands upon which the work is to occur and which includes the lot, concession number or plan number of the lands,
 - (2) identify the owner in respect of the lands upon which the work is to occur, and
 - (3) identify the architect or engineer or contractor, if applicable, in respect of the proposed work on the lands.
15. Every application shall be accompanied by:

- (1) two copies of site plans, plans and specifications showing,
 - (a) the dimensions of the parcel of land upon which the work is to be performed,
 - (b) the existing and proposed elevations of the parcel of land upon which the work is to be performed as plotted on a contour grid, including the elevation to the finished floor elevation of any existing or proposed dwelling,
 - (c) the location of any existing building or structure on the lands upon which the work is to be performed,
 - (d) the dimensions of any existing or proposed building or pool to be constructed including the maximum depth of the pool at any point,
 - (e) the proposed work on the lands in detail, including the proposed pool and fence location, the installation of the pool, the construction of the fence, any proposed change in grading and the construction details of any retaining wall proposed to be installed,
 - (f) the existing drainage pattern including all existing watercourses,
 - (g) any existing retaining walls and their dimensions,
 - (h) all storm sewers, ditches and swales on the lands on which work is to be performed and on abutting lands and highways,
 - (i) all natural features on the lands on which work is to be performed including, but not restricted to, marshes, wetlands and watercourses,
 - (j) location of all existing slopes and embankments,
 - (k) the location and elevation of any existing or proposed tile bed,
 - (l) approval of the work by the Regional Municipality of Peel Health Unit,
 - (m) the location of any fill dumped or placed, or proposed to be dumped or placed, in respect of the work to be carried out on the lands,
 - (n) description of the fill dumped or placed, or proposed to be dumped or placed, in respect of the work to be carried out on the lands,
 - (o) identification of the source of the fill dumped or placed, or proposed to be dumped or placed, in respect of the work to be carried out on the lands,
 - (p) a notation indicating the area where backwash water of the pool will discharge,
 - (2) where applicable:
 - (a) a development permit from the Niagara Escarpment Commission,
 - (b) a permit from a conservation authority having jurisdiction in the Town of Caledon,
 - (c) a certified copy of any decision of the Committee of Adjustment of the Town of Caledon relating to the proposed work,
 - (3) such other documents or information or approvals as may be required by the chief building official,
 - (4) such fees as may be required by the provisions of this by-law or any other applicable law, and
 - (5) be signed by the owner of the lands on which the work is to be performed, or by a person authorized, in writing, to act as an agent for such owner, certifying the correctness of all the information in the application.
16. Any plan submitted shall refer to a current plan of survey certified by a registered Ontario Land Surveyor and a copy of the said survey shall be filed with the chief building official.
 17. All plans shall be prepared in accordance with standard engineering, architectural and surveying practice.
 18. Where the chief building official is of the opinion that any one or more of the requirements contained in section 15(1), in any particular case, are unnecessary or may create undue hardship upon the applicant, he may waive any one or more of such requirements, provided that the intent and purpose of this by-law is maintained.

19. An applicant shall provide all the information required to complete the application form, and shall furnish such plans, specifications, documents and other information that may be required by the chief building official so that he may be able to determine whether or not the proposed work conforms to any applicable statute, regulation or by-law.

FEES

20. The fees payable for a permit are as follows:
- (1) \$25.00 for the first \$1,000.00 of estimated construction cost of the swimming pool,
 - (2) \$8.00 for each subsequent \$1,000.00 of estimated construction cost of the swimming pool, or any portion thereof, and
 - (3) A non-refundable processing fee of \$50.00.

PERMIT

21. The chief building official may issued a permit for the construction of a fence where the application does not contravene the provisions of this by-law or any other applicable law.
22. Prior to the issuance of a permit the chief building official may require that the applicant
- (1) provide security in a form and amount determined by the chief building official to secure the performance of any work necessary to reinstate the lands disturbed by the installation of the swimming pool and the fence, to repair any lands or buildings owned by the Town of Caledon damaged by the installation of the swimming pool and the fence and to comply with any conditions of the permit, and
 - (2) provide consent in writing to the entry by The Corporation of the Town of Caledon upon the lands where the work is to be, or was, performed in order that the Town may reinstate the lands disturbed by the installation of the swimming pool and fence, repair any of its lands or buildings damaged by the installation of the swimming pool and the fence and to carry out any outstanding conditions of the permit.

EXEMPTIONS

23. Notwithstanding any other provision of this by-law, no person is required to erect a fence
- (1) in respect of an above-ground swimming pool with a deck which has a minimum height of 4 feet above finished grade provided that:
 - (a) a railing having a minimum height of 32 inches is erected above the deck,
 - (b) the railing is constructed of vertical standards with a maximum spacing of 4 inches,
 - (c) all structures located below the deck have a smooth surface, and
 - (d) steps are installed which swing up to close the top railing with a locking device to secure them in a stationary position as a gate.
 - (2) in respect of an above-ground swimming pool:
 - (a) which has smooth-faced walls in excess of four feet in height, and
 - (b) which is manufactured so that there is no access to the above-ground pool except by means of steps which swing up into a locked position, or which are removed when the pool is not in use.

(3) in respect of any privately-owned outdoor swimming pool where the pool is located both:

[By-law 96-68
effective Jul 8/96]

(a) beyond 656.17 feet measured from any residence located on an adjoining lot, and

(b) on a lot which is in excess of five acres in area.

(4) in respect of any hot tub, whirlpool or spa provided that:

[By-law 2003-83
effective Apr 28/03]

(a) the hot tub, whirlpool or spa is located above-ground,

(a) a substantial cover is fixed and secured to the structure, and

(b) the cover is kept in place by a means which prevents access to the hot tub, whirlpool or spa when the structure is not attended by a competent person.

OFFENCE

23. Every person who contravenes this by-law is guilty of an offence.

REPEAL

24. By-laws 77-115, 79-79 and 85-122 be and the same are hereby repealed.

Read a first, second and third time finally
passed in Open Council
this 4th day of March 1996.

Mayor Seglins

Marjory Morden - Town Clerk