

THE CORPORATION OF THE TOWN OF PERTH

BY-LAW NUMBER 2397

BEING A BY-LAW PRESCRIBING THE HEIGHT AND DESCRIPTION OF, AND THE MANNER OF ERECTING AND MAINTAINING FENCES AND GATES AROUND PRIVATELY-OWNED OUTDOOR SWIMMING POOLS.

WHEREAS pursuant to Paragraph 24 of Sub-section 1 of Section 354 of The Municipal Act, R. S. O. 1970 Chapter 284, as amended, a Municipality may pass by-laws for requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates;

AND WHEREAS the Corporation of the Town of Perth deems it advisable to pass such a by-law:

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF PERTH ENACTS AS FOLLOWS:

1. DEFINITIONS:

ENCLOSURE means a fence, wall or other structure, including doors and gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

PRIVATELY-OWNED OUTDOOR SWIMMING POOL means any privately-owned body of water located outdoors contained in part or in whole by artificial means in which the depth of the water at any point can exceed 0.75 metres (2.46 ft.) and used or capable of being used for swimming, wading, diving or bathing.

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

2. ENCLOSURES:

- (a) The owner of a privately-owned outdoor swimming pool shall erect and maintain an adequate enclosure surrounding the entire swimming pool area and sufficient to make such body of water not readily accessible to small children.
- (b) No person shall fill a privately-owned outdoor swimming pool with water or maintain such pool filled with water until an enclosure complying with the requirements of this section has been erected around the swimming pool. During the course of construction, the owner or his agent may fill the said pool with water during such period as is required for the purpose of testing and backfilling the said pool.
- (c) Such enclosure, including gates therein, shall extend from the ground to a height, measured on the outside of the enclosure, of not less than 1.2 metres (3.93 ft.).

- (d) When a wall of a building forms part of such enclosure, no main or service entrance to the building shall be located within the swimming pool area enclosure, except that this requirement shall not apply when the main entrance and all exterior service meters and intakes are located outside the enclosure and a sign is erected and maintained directing all service personnel to use the main entrance.
- (e) Except as provided in (f) (vi) (2), such enclosures shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
- (f) A fence or its equivalent, forming part of such enclosure -
 - (i) Shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in clause (f) (vi);
 - (ii) if of chain link construction, shall
 - (1) be of not greater than 38 millimetre (1.5 inches) diamond mesh;
 - (2) be constructed of galvanized steel wire not less than No. 12 gauge or of a minimum 14 gauge steel wire covered with a vinyl or other approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire;
 - (3) be supported by at least 38 millimetre (1.5 inches) diameter galvanized steel posts each covered by a minimum of 51 millimetres (2.0 inches) of concrete from grade to a minimum of 0.60 metres (1.97 ft.) below grade, such posts to be spaced not more than 3.0 metres apart. Top and bottom horizontal rails shall be provided of 32 millimetre (1.26 inches) minimum diameter galvanized steel, except that 6 millimetre minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating;
 - (iii) if of wood construction, shall
 - (1) 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 x 102 millimetres (.98 x 4.02 inches) nominal dimensions spaced not more than 38 millimetres (1.50 inches) apart.
 - (2) be supported by a minimum of 102 millimetre (4.02 inches) square or 102 millimetre diameter cedar posts, nominal dimensions, spaced not more than 2.5 metres (8.2 ft.) on centres securely embedded to a minimum of 0.60 metres (1.97 ft.) below grade. That portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of 51 x 102 millimetres (2.01 x 4.02) inches minimum nominal dimensions;
 - (iv) Shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence;
 - (v) Shall be located not less than 1.2 metres (3.93 ft.) from the swimming pool unless
 - (1) the required height of such fence, as prescribed in paragraph 2(c), is increased to not less than 1.8 metres (5.90 ft.) above grade level, and
 - (2) a continuous hand hold is available along the edges of the pool for the purpose of providing, in an emergency, support for a person in the pool;

2. (v) (2)

and such fence shall not, regardless of height, be located closer than 1.2 metres (3.93 ft.) to any condition that would contribute to the lessening of these minimum safety requirements by facilitating the climbing of the swimming pool fence.

(vi) May be of construction other than that specified provided an equivalent degree of safety is maintained and shall

(1) be constructed so that the rigidity is equal to that specified for those fences described in classes (f) (ii) or (iii);

(2) be permitted to have exposed structural or other members or parts thereof that may facilitate climbing the outside of the enclosure provided that minimum clear vertical distance between any such members, or parts thereof, is 1.2 metres (3.93 ft.) and, regardless of the location of such members, where this minimum 1.2 metres (3.93 ft.) vertical dimension is maintained the least dimension of any opening through such fence may be increased to not more than that required to prevent the passage of a spherical object having a diameter of 102 millimetres (4.02 inches).

(vii) In the case of pools constructed above ground having deck and fence attached to the pool, there shall be a minimum of 1.8 metres (5.9 ft.) from grade to top of fence, and such pool shall not be less than 1.2 metres (3.93 ft.) clear of all property lines or of any condition that would facilitate climbing of the swimming pool fence.

(g) Gates forming part of such enclosure shall

(i) be of construction and height equivalent to that required for the fence;

(ii) be supported on substantial hinges, and

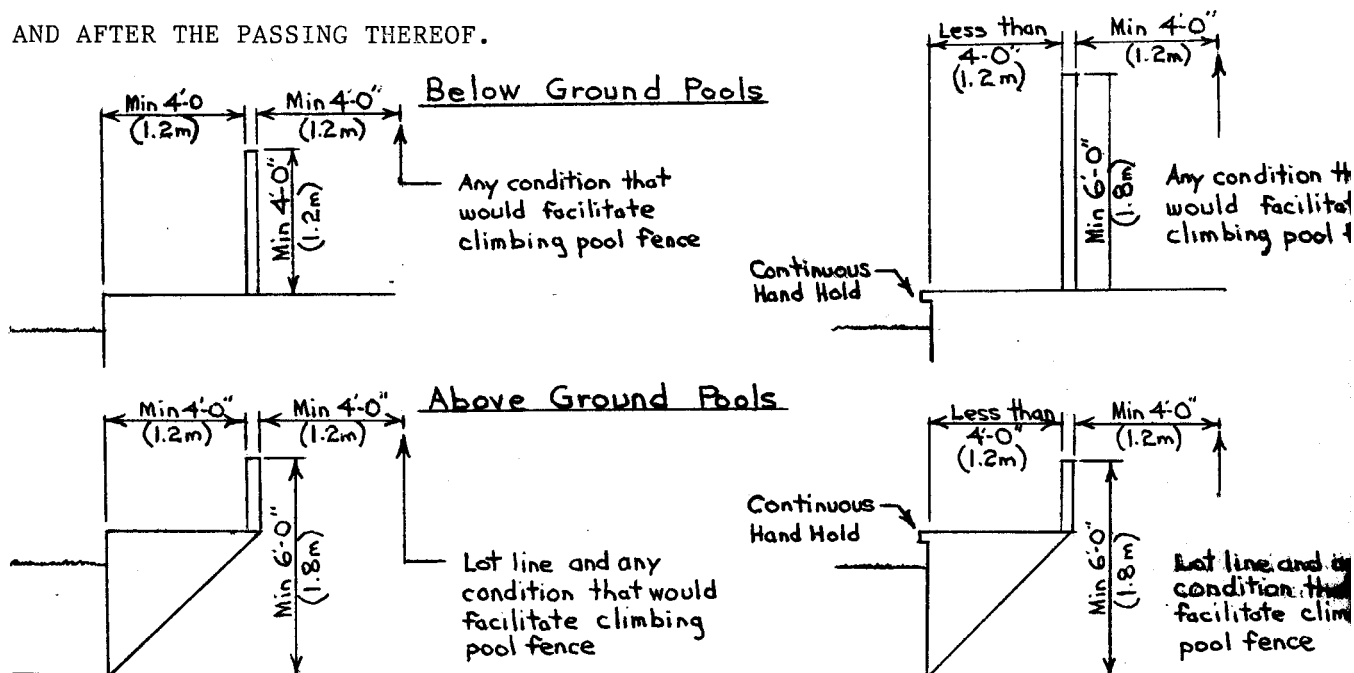
(iii) each be self-closing and equipped with a locking device and with a self-latching device placed at the top and on the inside of the gate.

(h) Subject to the provisions of Paragraph (d), doors providing access from a building directly to an enclosed swimming pool area, other than doors located in a dwelling unit or rooming unit, shall each be self-closing and equipped with a locking device and with a self-latching device located not less than 1.5 metres (4.92 ft.) above the bottom of the door.

(i) The owner of every privately-owned outdoor swimming pool shall ensure that every gate and door required by Paragraphs (g) and (h) to be equipped with a locking device shall be kept locked at all times there is more than 0.60 metres (1.97 ft.) of water in the pool and a responsible person is not present and supervising the pool.

4. The location and design of all fences required hereunder to be constructed and maintained around any privately-owned swimming pool, shall be approved by the Chief Building Official of the Town of Perth.
5. This By-Law shall be enforced by the Chief Building Official of the Corporation of the Town of Perth.
6. The provisions of this By-Law shall apply to all privately-owned outdoor swimming pools constructed or in construction subsequent to the date hereof, and to all such pools which, as of the date of final passing of this By-Law fail to meet the requirements for such pools as set forth hereunder.
7. Any person convicted of a breach of any of the provisions of this By-Law shall forfeit and pay, at the discretion of the convicting Magistrate, a penalty not exceeding, exclusive of costs, the sum of one thousand dollars (\$1,000.00) for each offence or a term of imprisonment of not more than twenty-one (21) days.
8. It is the declared intention of the Council of the Town of Perth that any section or part of a section of this By-Law which may subsequently be held invalid shall be severable from the remainder of the By-Law and shall not be deemed to have persuaded or influenced the Council to pass the remainder of the By-Law.

THIS BY-LAW SHALL COME INTO FORCE AND TAKE EFFECT IMMEDIATELY ON AND AFTER THE PASSING THEREOF.



PASSED AND GIVEN under the hands of the Mayor and Town Clerk and the corporate seal of the Corporation of the Town of Perth this 23rd day of June, 1981.

D. L. Hansen

 MAYOR

James A. [Signature]

 TOWN CLERK

(Seal of the Corporation of the Town of Perth)