

**CORPORATION OF THE
TOWNSHIP OF ZORRA**



BY-LAW NO. 23-08

**BEING A BY-LAW TO REQUIRE AND REGULATE THE
FENCING OF PRIVATELY OWNED OUTDOOR
SWIMMING POOLS.**

WHEREAS Section 11(1) 7 of the *Municipal Act, 2001 S.O. 2001, c.25*, as amended (hereinafter the "*Municipal Act*") provides that a municipality may pass by-laws within the sphere of jurisdiction entitled Structures, including fences and signs;

AND WHEREAS the Council of the Corporation of the Township of Zorra deems it necessary to regulate and require owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such pools, and for prescribing the height and description of, and manner of erecting and maintaining such fences and gates;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ZORRA ENACTS AS FOLLOWS:

1. DEFINITIONS

- 1.1 Above-Ground Swimming Pool – shall include any privately owned swimming pool that is not an in-ground privately owned swimming pool.
- 1.2 Approved – shall mean approved by the Township's Chief Building Official, Building Inspector or By-law Enforcement Officer.
- 1.3 Constructed – shall mean the erection, installation or fabrication of a material thing.
- 1.4 Deck – shall mean any structure forming a floor system above grade.
- 1.5 Enclosure – shall mean a fence or wall or other structure, including doors and gates surrounding a privately owned outdoor swimming pool to restrict access thereto.
- 1.6 Fabricated – shall mean constructed or manufactured.
- 1.7 Fence – shall mean a barrier constructed to enclose a privately owned swimming pool.
- 1.8 Grade – shall mean the average level of finished ground surrounding the privately owned swimming pool.
- 1.9 In-Ground Swimming Pool – shall mean any privately owned swimming pool of which part or all is recessed .61 meters (2 feet) or more below grade.
- 1.10 Inflated – shall mean distended with air or gas.
- 1.11 Owner – shall include the owner, tenant or lessee in possession of the property on which a privately owned swimming pool structure is located.
- 1.12 Privately Owned Swimming Pool – shall mean any constructed, manufactured, inflated or fabricated structure used for, intended to be used for or constructed, manufactured, inflated or fabricated for the purpose of swimming, diving, wading or bathing which could, when filled, contain a depth of 45.72 centimeters (18 inches) or more of water at any given section and is not enclosed and covered by an accessory structure but shall not include fish ponds, hot tubs, spas or irrigation ponds.

2. GENERAL PROVISIONS

- 2.1 Every owner or a privately owned swimming pool shall erect and maintain a fence completely surrounding such pool in accordance with the provisions of this by-law.
- 2.2 Notwithstanding Section 2.1 of this by-law, an owner of an above-ground swimming pool is not required to erect a fence surrounding said structure provided the following provisions are met:
- 2.2.1 The wall of the pool structure, provided that there is no deck, is at least 1.22 metres (4 feet) in height above grade;
- 2.2.2 There is no exterior horizontal or vertical or diagonal bracing on the swimming pool structure that may be used as a foothold or handhold and facilitate climbing;
- 2.2.3 There are no footholds or handholds which reduce the effective height of the wall to less than 1.22 metres (4 feet);
- 2.2.4 That any stair, ramp, walkway or ladder providing access to an above-ground swimming pool structure are removed or raised and locked at a height of at least 1.22 metres (4 feet) when the pool is not in use or;
- 2.2.5 Where any stair, ramp, walkway or ladder do not comply with Section 2.2.4, a fence and gate both of which are at least 1.22 metres (4 feet) in height shall enclose the stair, ramp, walkway or ladder and further any gate shall comply with the requirements contained within this by-law;
- 2.2.6 That any pump or accessory appurtenance or structure located shall be located at such a distance and in a manner so as to not facilitate its use as a foothold or handhold or shall be protected in a manner so as to satisfy the fencing requirements as per Section 3 of this by-law;
- 2.2.7 Where a deck is constructed at or near the rim level of the above-ground swimming pool, it shall comply with the provisions of Section 5 of this by-law.
- 2.3 No owner shall fill a privately owned swimming pool with water or allow water to remain therein unless a fence has been erected in accordance with this by-law.
- 2.4 Every owner of a privately owned swimming pool shall notify the Chief Building Official or Township Building Inspector within 24 hours or by the next business day of the completion of a temporary or permanent fence so that an inspection may be conducted.
- 2.5 Every owner of a privately owned swimming pool that is under construction shall erect and maintain a temporary fence during the excavation and installation of the privately owned swimming pool subject to the requirements in Schedule "B" of this by-law.
- 2.6 Every owner of a privately owned swimming pool shall ensure that every gate and every door providing access to such privately owned swimming pool shall be kept locked at all times when the pool is not in use.
- 2.7 All fences and gates constructed and installed in accordance with the provisions of this by-law shall be maintained in such a condition so that the fences and gates continue to be in compliance with said provisions.

2.8 This by-law shall apply only to privately owned swimming pools.

2.9 The provisions of this by-law shall apply to privately owned swimming pool fences and gates erected following the date of passage of this by-law.

2.10 Any privately owned swimming pool fences and gates existing prior to the passage of this by-law are exempt from the provisions of this by-law provided that said existing fence and gate conformed to the requirements of the applicable former municipal by-law in force at the time of construction and that such fences and gates are maintained in accordance with the provisions of those by-laws.

3. FENCING REQUIREMENTS

3.1 Every owner of a privately owned swimming pool will erect and maintain a fence with a minimum height of 1.22 metres (4 feet) above grade.

3.2 Any fence constructed in accordance with this by-law will conform to the specifications contained in Schedule "A" attached to this by-law.

3.3 Any fence constructed in accordance with this by-law shall be erected to have no more than a 50 mm (2 inch) clearance under the said fence.

3.4 Any fence constructed in accordance with this by-law shall not have any attachments or bracing on the exterior facing of the fence within a height of 1.22 metres (4 feet) of the grade level that may facilitate climbing.

3.5 Any fence constructed in accordance with this by-law shall not be located any closer than .91 metres (3 feet) from the edge of a privately owned swimming pool.

3.6 The wall of a building or structure may be used in place of a portion of a required fence provided that it meets the requirements for fences contained herein.

3.7 A boundary fence may be used as a part or all of the required fencing provided for in this by-law provided that the requirements of this by-law are met in full.

4. GATE REQUIREMENTS

Every gate erected in a fence around a privately owned swimming pool shall conform to the following requirements:

4.1 Every gate shall be of construction and height requirements equivalent to that required for the fence.

4.2 Every gate shall be supported on substantial hinges that are self-closing.

4.3 Every gate shall be equipped with a self-latching device at the top and inside of the fence and fitted for a locking device.

4.4 Every gate shall be closed and locked when the privately owned swimming pool is not in use.

5. DECKS

Where a deck is erected at or near the rim level of an above-ground privately owned swimming pool, the deck shall be fenced and gated and such deck fencing and gates shall conform to the requirements for fencing and gates contained within this by-law.

6. ENFORCEMENT

This by-law shall be enforced by the Chief Building Official, Building Inspector or Township By-law Enforcement Officer.

7. PENALTY

Every person who contravenes this by-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, as amended.

8. SEVERABILITY

If any provision of this by-law is declared invalid or unenforceable by any competent authority such provision shall be deemed severed and shall not affect the validity or enforceability of the remaining provisions of this by-law.

9. REPEAL

That By-law 45-1979 and By-law 42-1985 are now repealed.

10. That this by-law shall come into full force and effect upon third and final reading.

READ A FIRST AND SECOND TIME THIS 4th day of MARCH, 2008.

READ A THIRD TIME AND FINALLY PASSED THIS 4th day of MARCH, 2008.



MARGARET LUPTON
MAYOR



DONALD W. MACLEOD
CLERK ADMINISTRATOR

SCHEDULE "A"
BY-LAW NO. 23-08

**FENCING REQUIREMENTS FOR PRIVATELY OWNED OUTDOOR SWIMMING
POOLS**

A fence required by Section 3 of this by-law shall be constructed and maintained as follows:

1. ACCEPTED MATERIALS

1.1 A fence erected under this by-law may be of chain link, vertical board, metal picket vertical rod or angle irons construction or any other materials deemed to be acceptable by the Chief Building Official or Building Inspector.

2. REQUIREMENTS FOR CHAIN LINK CONSTRUCTION

2.1 That the mesh of the chain link be no greater than a 50 mm (2 inch) mesh so as to prevent the passage of a spherical object having a diameter of 100 mm (4 inch).

2.2 The chain link fence be constructed of galvanized wire no less than No. 12 gauge diameter or minimum No. 14 gauge steel wire covered with vinyl or other approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire.

2.3 That the chain link be supported by a rigid metal bar at the top and a stiffener for the bottom of the fencing.

2.4 That the chain link be supported on substantial steel posts not more than 3 metres (10 feet) apart, and at least 0.914 metres (3 feet) below grade and to be encased in concrete at least 100 mm (4 inches) thick all around the post.

3. REQUIREMENTS FOR VERTICAL BOARD OR METAL PICKET CONSTRUCTION

3.1 That the vertical board or vertical metal pickets be of not less than 19 mm x 64 mm (1" x 3") and spaced so as to prevent the passage of a spherical object having a diameter of 100 mm (4 inches).

3.2 That the vertical board or vertical metal pickets be attached to horizontal members spaced vertically at a distance of no less than 4 feet (1.22 metres) apart so as not to facilitate a hand hold or foot hold unless said members are on the pool face side of the fence and the vertical members have an opening of no greater than 50 mm (2 inches).

3.3 That the vertical board or vertical metal pickets be supported on substantial posts placed no more than 2.3 metres (8 feet) apart and installed at least 0.914 metres (3 feet) into the ground.

4. VERTICAL IRON RODS OR ANGLE IRONS CONSTRUCTION

4.1 That the vertical iron rods or angle irons are no less than 1.25 cm (1/2 inch) in diameter or of equivalent strength.

4.2 That the vertical iron rods or angle irons are no less than 1.5 metres (5 feet) in height and the openings between the vertical rod or the angle irons does not exceed 80 mm (3 inches) apart so as to prevent the passage of a spherical object having a diameter of 100 mm (4 inches).

4.3 The distance between the horizontal members or stringers shall be no less than 1.22 metres (4 feet).

SCHEDULE "B"
BY-LAW NO. 23-08

**TEMPORARY FENCING REQUIREMENTS FOR PRIVATELY OWNED OUTDOOR
SWIMMING POOLS**

1. A temporary fence as required in Section 2.3 of the General Provisions section of this by-law shall be subject to the following requirements:
 - 1.1 The temporary fence must be a snow fence or an approved alternative.
 - 1.2 The fence must be a minimum of 1.22 metres (4 feet) in height and adequately supported by posts no more than 1.22 metres (4 feet) apart.
 - 1.3 The fence must be in good repair with no openings that would permit the passage of a spherical object having a diameter of 100 mm (4 inches).
 - 1.4 The fence must enclose the entire pool area and be replaced with the prescribed permanent fencing within 15 days of filling the pool with water.
 - 1.5 Any gate installed shall be closed and locked when no construction is actively taking place.