

CORPORATION OF THE TOWNSHIP OF EAST GARAFRAXA

BY-LAW NUMBER 18-2000

**BEING A BY-LAW TO REQUIRE FENCES AND GATES AROUND PRIVATELY-OWNED
OUTDOOR SWIMMING POOLS WITHIN THE TOWNSHIP**

WHEREAS the Municipal Act, R.S.O. 1990, c M.45, Section 210 Paragraph 30 permits the Municipality to pass a By-Law requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF EAST GARAFRAXA ENACTS AS FOLLOWS:

SECTION 1 TITLE

1.1 This By-Law may be referred to as the Swimming Pool Enclosure By-Law for privately-owned outdoor swimming pools.

SECTION 2 DEFINITIONS

For the purposes of the by-Law the definitions given in this section shall govern:

- 2.1 "Corporation" means the Corporation of the Township of East Garafraxa;
- 2.2 "Inspectors" means a person from time to time holding the office of Inspector under the Ontario Building Code Act, for the Corporation or for the Corporation of the County of Dufferin, and/or any appointed By-Law Enforcement Officer of the Corporation of the Township of East Garafraxa.
- 2.3 "Owner of Lands" means the last registered owner as disclosed by the records of the Land Registrar for the Registry division of Dufferin.
- 2.4 "Exterior Face", when used in conjunction with a pool enclosure, means the side of the enclosure from which access to the pool is to be prevented;
- 2.5 "Privately-owned outdoor swimming pool" means any privately-owned body of water located outdoors above or below finished grade on privately owned property, contained in part or in whole by artificial means in which the depth of water at any point can exceed 600 mm (24 inches). Not included in this definition is any swimming pool owned by a public or government body, agency or authority, any pond or natural body of water.
- 2.6 "Swimming pool area" means the swimming pool plus any surrounding platforms, walkways, play areas and landscaped areas within the swimming pool enclosure;
- 2.7 "Swimming pool enclosure" means a fence, wall or other structure, doors, gates and other closures, surrounding an outdoor swimming pool.

SECTION 3 ADMINISTRATION AND AUTHORITY

3.1 This By-Law shall be administered and enforced by the Chief Building Official for the Corporation of the County of Dufferin, and/or any appointed By-Law Enforcement Officer of the Corporation of the Township of East Garafraxa.

SECTION 4 PERMITS

- 4.1 No person shall excavate, or cause or permit excavation for any privately-owned swimming pool, or erect, or cause or permit the erection of any privately-owned swimming pool without first obtaining a permit for a swimming pool enclosure from the Township and the County of Dufferin Building Department.
- 4.2 An application for a permit to construct a swimming pool enclosure around a privately-owned swimming pool shall be submitted to the Township of Est Garafraxa and the County Building Department. To obtain a permit, an applicant shall file an application, in writing, on forms prescribed by the Chief Building Official, and supply any other forms deemed necessary, together with plans showing the location of the swimming pool in relation to the property lines and to adjacent buildings and shall provide full details of all required enclosures.
- 4.3 No permit shall be issued unless the application is in compliance with applicable municipal by-laws.

SECTION 5 SWIMMING POOL ENCLOSURE REQUIREMENTS

- 5.1 The Owner of any lands 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, a swimming pool enclosure around the entire swimming pool area, which is of a type and nature designed to prohibit unauthorized entry.
- 5.2 Such adequate enclosure shall be of a minimum height of 1.5 metres (5 ft.) And shall have a gate or gates equipped with a lock or locks and shall be locked at all times except when the swimming pool is being supervised by a responsible adult person.
- 5.3 No person shall place water in or cause water to be placed in a privately owned outdoor swimming pool or allow water to remain therein unless the swimming pool enclosure prescribed by this by-law is erected and maintained.
- 5.4 Subject to Section 5.2, no attachment that could facilitate climbing shall be permitted on the exterior face of a swimming pool enclosure, and no swimming pool enclosure shall be located closer than 1.2 m (4 ft.) to any condition that facilitates the climbing of the enclosure unless alternative measures are implemented to provide an equivalent level of safety as set out in this by-law.
- 5.5 Fences that form part of the required swimming pool enclosure shall contain no barbed wire, electrical wiring, sharp projections or any other dangerous characteristics either on the outside or inside.
- 5.6 Gates which form a part of the swimming pool enclosure shall be:
 - i. Of construction and height equivalent to or greater than that of the required swimming pool enclosure;
 - ii. Supported on substantial hinges;
 - iii. Self closing and equipped with a self latching device placed at the top and on the inside of the gate
- 5.7 All entrances to the swimming pool area which form part of the swimming pool enclosure, whether they be doors, windows or gates, shall be kept latched at all times except when the swimming pool is being supervised by a responsible adult person.
- 5.8 Notwithstanding the provisions of this section, a wall of a dwelling unit may be substituted for any fence required by this section but where a wall of a building is used as a portion of a fence around a privately-owned outdoor swimming pool, any opening located in such wall which provides access to the building shall have a door which is capable of being locked and shall be locked whenever the pool is unattended.

SECTION 6 ABOVE GROUND SWIMMING POOLS, HOT TUBS, WHIRLPOOLS AND SPAS

- 6.1 For the purposes of this By-Law, above ground privately owned swimming pools are considered to be the same as in ground privately owned swimming pools, and require the same enclosure around the entire pool.
- 6.2 Above ground privately-owned swimming pools may have an integrally constructed fence as part of the required swimming pool enclosure provided:
 - i. The exterior sides of the swimming pool is in excess of 1.5 m (5 feet) above grade and are constructed in a manner that will not facilitate climbing.
 - ii. A guard of not less than 1.0 m (3.3 ft.) in height is provided around any platform or deck and is constructed in a manner that will not facilitate climbing;
- 6.3 Any gate or entrance to an above ground swimming pool shall be protected in accordance with Section 5 of the By-Law.
- 6.4 Structures known as 'hot tubs', "whirlpools" and Spas" need not comply with requirements of Section 4 through Section 6 of the By-Law provided that a secure cover of rigid material is placed over the opening and is locked to prevent access when the structure is not in use.

SECTION 7 PENALTIES

- 7.1 Any person who contravenes any of the provisions of this By-Law is guilty of an offence. Pursuant to Section 61 of the Provincial Offenses Act, R.S.O. , 1990, c. P.33 any person convicted of an offence is liable to a fine of not more than five thousand dollars (\$5,000.00) for each offence committed.

SECTION 8 REPEAL AND TRANSITION

- 8.1 By-Law 18-95 is hereby repealed.
- 8.2 Notwithstanding Subsection 8.1 hereof, the provisions of By-Law 18-95 continue to apply to any swimming pool enclosure or fence legally existing on the property on the day of passing of this By-Law until such time as the existing fence is replaced.

SECTION 9 NOTIFICATIONS

- 9.1 An Inspector or any assistant shall have the right to visit, enter and inspect from time to time and at all reasonable times, any privately-owned outdoor swimming pool, for the purpose of enforcing the provisions of this by-law.
- 9.2 Any section or subsection of this by-law or any part or parts thereof found to be illegal or beyond the power of Council to enact such section or subsection or part or parts thereof, shall be deemed to be severable so that all other sections, subsections or part of parts thereof this by-law are separate and therefore enacted as such.

BY-LAW READ A FIRST AND SECOND TIME THIS 19th day of September 2000

BY-LAW READ A THIRD TIME AND PASSED THIS 19th day of September 2000


REEVE


CLERK