

THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NO. 65-00

BEING A BY-LAW TO REQUIRE: OWNERS OF PRIVATELY OWNED OUTDOOR SWIMMING POOLS TO ERECT AND MAINTAIN FENCES AND GATES AROUND SUCH POOLS.

WHEREAS Section 210, Paragraph 30 of the Municipal Act, R.S.O. 1990, c.M.45, as amended, authorizes councils of local municipalities to pass by-laws for 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, etc.;

AND WHEREAS the Council of the Corporation of the Town of Cobourg considers it desirable and in the public interest to enact such a by-law;

NOW THEREFORE the Council of the Corporation of the Town of Cobourg hereby enacts as follows:

1. For purposes of this By-law:
 - (a) "Annexed Area(s)" shall mean those lands formerly located in the Township of Hamilton that have been, from time to time, annexed to and now form part of the Municipality;
 - (b) "Municipality" shall mean the Corporation of the Town of Cobourg;
 - (c) "Pool" shall mean any body of water located outdoors on privately owned lands and contained in part or in whole by artificial means and/or structures in which the depth of water at any point can exceed sixty-one (61) centimetres and which is capable of being used for swimming, diving or bathing. Without limiting the generality of the foregoing, "pool" shall include structures generally known as "hot tubs or whirlpools";
 - (d) "Pool enclosure" shall mean a fence, wall or other structure, including doors and gates, that completely surrounds the pool;
 - (e) "Owner" includes lessees, tenants or persons in possession of land on which a pool is located; and
 - (f) "Substantial Repairs" shall mean repair or replacement of more than 50% of the length of the particular pool enclosure.
2. No person shall fill a pool with water or allow a pool to be filled with water until a pool enclosure complying with the requirements of this By-law has been erected and the said pool enclosure has been inspected and approved by the Chief Building Official or a building inspector of the Municipality.
3.
 - (a) Every pool enclosure shall extend from the ground to a height of not less than 1.83 metres . The clearance at the bottom of all pool enclosures shall not be more than 7.6 centimetres from the ground.
 - (b) Notwithstanding the foregoing, a pool enclosure shall not be required where the top of the outside wall of an above-ground pool is elevated at least 1.83 metres above the grade of the ground immediately abutting such pool and each and every entrance to such pool is properly protected by a gate that is at least 1.83 metres in height and meets the other requirements of Paragraph 5 of this By-law.


4. Every fence forming all or part of a pool enclosure shall:
 - (i) be located not closer than 1.2 metres to the water's edge of the pool; and
 - (ii) have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing; and
 - (iii) in no part consist of barbed or electric wire or other material having similar dangerous characteristics and no device for projecting an electric current through the fence; and
 - (iv) if of chainlink construction, be:
 - (a) of not greater than 3.8 centimetres diamond mesh; and
 - (b) constructed of galvanized wire not less than 11 gauge diameter; and
 - (c) supported on substantial posts of wood or steel not more than 3 metres apart which are securely imbedded in the ground; and
 - (v) if of wood construction, be:
 - (a) of vertical boarded construction attached to supporting members in such a manner as not to facilitate climbing from the outside. The space between the boards shall be a maximum of 3.8 centimetres; and
 - (b) supported on substantial posts not more than 2.4 metres apart which are securely imbedded in the ground; and
 - (vi) if of any other material and/or construction, provide a degree of safety that is equivalent to chainlink or wood construction and all of the provisions of this By-law shall apply mutatis mutandis.
5. Every gate forming part of a pool enclosure shall:
 - (i) be of construction and height equivalent to that required for the fence; and
 - (ii) be supported on substantial hinges; and
 - (iii) be self-closing and equipped with self-latching devices placed at the top and on the inside of the said gate.
6. Every door providing direct access to a pool from a building forming part of a pool enclosure, except for a door located in a habitable room (other than a garage), shall be self-closing and equipped with a self-latching device located not less than 1.83 metres from the bottom of the door.
7. Every gate providing access to a pool shall be kept locked at all times that a responsible person is not present and supervising the pool.
8. (a) Notwithstanding the provisions of this By-law, a pool that is a hot tub or whirlpool and that has a cover that may be locked and that will support a weight of at least 27.2 kg is not required to be enclosed by a pool enclosure.

- (b) Every owner of a pool that is a hot tub or whirlpool shall ensure that the cover for such pool remains securely closed and locked at all times when such pool is not in use.
- 9. A boundary fence which complies with the provisions of this By-law may be utilized as part of a pool enclosure for purposes of satisfying the requirements of this By-law.
- 10.
 - (a) No person shall excavate for or otherwise commence construction of a pool or pool enclosure unless the owner of the pool has first obtained a permit from the Municipality.
 - (b) The fee for such permit shall be established by the Council of the Municipality from time to time.
- 11.
 - (a) Every owner of a pool shall at all times comply with each and every requirement of this By-law.
 - (b) Every pool enclosure shall be maintained in good repair and in compliance with the requirements of this By-law.
 - (c) Any pool or pool enclosure found by the Chief Building Official or a building inspector of the Municipality not to be in compliance with any requirement of this By-law shall result in the owner being served, by registered mail, with a Notice of Non-Compliance. The owner shall within thirty (30) days of the mailing of the Notice of such Non-Compliance remedy the points of non-compliance listed in the Notice.
 - (d) In the event that the owner has not corrected the deficiencies in the Notice of Non-Compliance to the standards set out in this By-law within the said thirty (30) days, the owner shall forthwith drain the pool and cover same with a covering that is able to support a minimum of one hundred and fifty (150) pounds until such time as there is compliance with the requirements of this By-law.
- 12. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the provisions of the Provincial Offences Act, R.S.O. 1990, c.P.33.
- 13. The provisions of this By-law shall apply to all pools located within the municipal limits of the Town of Cobourg, including the Annexed Area, regardless of the date of construction of such pools except as follows:
 - (i) Every pool that was constructed within an Annexed Area prior to the date on which such lands were annexed into the Town of Cobourg shall fully comply with the pool enclosure requirements of Schedule "A" to this By-law (which requirements are based on Township of Hamilton By-law 3046), and the owner of every such pool shall not be required to upgrade or reconstruct the pool enclosure in accordance with the provisions of Paragraphs 3 to 6 inclusive of this By-law, subject to the provisions of Sub-Paragraph 13(iv) below;
 - (ii) Every pool that was constructed within the municipal limits of the Town of Cobourg (save and except the Annexed Areas) prior to August 10, 1970, (being the date of the enactment of Town of Cobourg By-law 54-70) shall fully comply with the pool enclosure requirements of Schedule "A" to this By-law (which


requirements are based on Town of Cobourg By-law 54-70) and the owner of every such pool shall not be required to upgrade or reconstruct the pool enclosure in accordance with the provisions of Paragraph

- (iii) 3 to 6 inclusive of this By-law, subject to the provisions of Sub-Paragraph 13(iv) below;
 - (iv) Every pool that was constructed on or after August 10, 1970, but before the date on which this By-law comes into effect, within the municipal limits of the Town of Cobourg (save and except the Annexed Areas) shall fully comply with the pool enclosure requirements of the particular Town of Cobourg By-law pertaining to pools and pool enclosures that was in effect at the date of such construction and the owner of every such pool shall not be required to upgrade or reconstruct the pool enclosure in accordance with the provisions of Paragraphs 3 to 6 inclusive of this By-law, subject to the provisions of Sub-Paragraph 13(iv) below;
 - (v) Notwithstanding anything in Paragraph 13 of this By-law to the contrary, where substantial repairs are to be undertaken to any pool enclosure, the standards, provisions and requirements contained in Paragraphs 3 to 6 of this By-law shall apply.
14. Schedule "A" hereto forms an integral part of this By-law.
 15. By-law No. 28-77 (as amended by By-law 9-82) for the Town of Cobourg is hereby repealed and replaced by the provisions of this By-law.
 16. This By-law shall come into effect on the date of final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 24th DAY OF JULY, 2000.



 Mayor: Joan Chalovich



 Clerk: Richard G. Stinson

SCHEDULE "A"

1. Every pool enclosure shall extend from the ground to a height of not less than 1.5 metres.
2. Every fence forming part of a pool enclosure, shall
 - (i) be located not closer than 1.2 metres to a pool; and
 - (ii) have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing; and
 - (iii) in no part consist of barbed or electric wire or other material having similar dangerous characteristics and no device for projecting an electric current through said fence;
 - (iv) if of chain link construction, be
 - (a) of not greater than 5.0 centimetres Diamond mesh; and
 - (b) constructed of galvanized wire not less than 13 gauge diameter; and
 - (c) supported on substantial posts of wood or steel not more than 3.0 metres apart which are securely imbedded in the ground;
 - (v) if of wood construction, be
 - (a) of vertical boarded construction attached to supporting members in such a manner as not to facilitate climbing from the outside; and
 - (b) supported on substantial posts not more than 2.4 metres apart which are securely imbedded in the ground;
 - (vi) if of any other material and construction, provide an equivalent degree of safety as that of chain link or wood construction.
3. Every gate forming part of a pool enclosure, shall
 - (i) be of construction and height equivalent to that required for the fence; and
 - (ii) be supported on substantial hinges; and
 - (iii) be self-closing and equipped with self-latching devices placed at the top and on the inside of said gate.
4. Every door providing direct access to a pool from a building forming part of a pool enclosure, except for a door located in a habitable room (other than a garage), shall be self-closing and equipped with a self-latching device located not less than 1.5 metres above the bottom of the door.