

THE CORPORATION OF THE TOWNSHIP OF DRUMMOND / NORTH ELMSLEY

**BY-LAW NO. 2019-017
Swimming Pool By-law**

BEING a By-law regulating the enclosure and location of privately owned outdoor pools.

WHEREAS Section 11(2) of the Municipal Act 2001, S.O. 2001 c. 25, (*Act*) permits lower tier municipalities to pass By-laws respecting structures including fences and signs.

AND WHEREAS under Section 10(2)(6) of the *Act* a municipality may pass by-laws respecting the health, safety and well-being of persons.

AND WHEREAS Section 15(1)(c) of the *Act* authorizes a municipality to pass a bylaw with respect to fences;

AND WHEREAS Section 446 of the *Act* authorizes a municipality to direct or require a person to do a matter or thing under a by-law the municipality may provide that in dealt of it being down by the person directed or required to do it, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Township of Township of Drummond / North Elmsley enacts as follows:

DEFINITIONS

1. In this By-law the following definitions shall apply:
 - a) "*above-ground pool*" means a *pool* installed entirely on or above established grade;
 - b) "*below-ground pool*" means a *pool* installed entirely below grade with no more than 150mm (6in) above *established grade*;
 - c) "By-law Enforcement Officer" means a By-law Enforcement Officer appointed by the Corporation of the Township of Drummond North Elmsley;
 - d) "Chief Building Official" means the Chief Building Official appointed by the Corporation of the Township of Drummond North Elmsley;
 - e) "*enclosure*" means any combination of fence, wall or other structure, including gates, surrounding a pool to restrict access thereto;

- f) "*established grade*" means the elevation of the finished surfaces immediately surrounding the outside of the enclosure;
- g) "exterior side lot line" means a side lot line immediately adjacent to a public street;
- h) "front lot line" means the lot line dividing the lot from the street. In the case of a waterfront lot, the shoreline shall be deemed to be the front lot line;
- i) "*hybrid-pool*" means a *pool* that is constructed partially above and below the established grade;
- j) "*interior lot line*" means a side lot line immediately adjacent to the neighbouring lot;
- k) "*Owner*" includes a lessee or tenant in possession of property on which a pool is located.
- l) "*permit*" means permission or authorization in writing from the Chief Building Official to erect enclosures and placement of pools as regulated by this By-law;
- m) "*Person*" means an individual, firm, corporation, association or partnership but does not include the Township of Drummond/North Elmsley;
- n) "*pool*" means a residential privately owned outdoor pool of water for swimming, bathing, wading or reflecting which is capable of retaining a water depth equal to or greater the 600 mm (24") at any point and includes above-ground, below-ground and hybrid-pools;
- o) "*rear lot line*" means the lot line furthest from and opposite to the front lot line.

GENERAL REGULATIONS

2. No Person shall install, erect, construct or in other manner place a pool except in accordance with the provisions of this By-law
3. Every owner of a privately-owned outdoor *pool* shall erect and maintain an *enclosure* surrounding the entire *pool* area to make such body of water not readily accessible according to the provisions of this By-law.
4. No person shall place water in a *pool* unless the prescribed enclosures have been erected in accordance with the provisions of this By-law.
5. The By-law Enforcement Officer at any reasonable time may enter upon any lands where a Pool Permit has been applied for, that a pool has been installed, or where

any pool is being installed for the purpose of inspection to ensure that compliance with the provisions of the by-law.

PERMIT REQUIREMENTS

6. No person shall construct or place a *pool* on his or her property without first obtaining a *pool* permit.
7. Despite Paragraph 4, a permit is not required in the case of a *pool* which has been dismantled and is being reconstructed in the same position and the same manner in which it was previously located provided that:
 - (a) a permit was obtained for the original installation, and
 - (b) the reinstallation meets the requirements of all currently applicable By-laws.

APPLICATION FOR A PERMIT – PLANS, SPECIFICATIONS & INFORMATION

8. To obtain a permit the owner shall file an application either electronically or in writing on the approved prescribed *pool* permit application form.
9. The fee for the *pool* permit shall be the amount set out in the Township's most current Tariff of Fees By-law.
10. Except as otherwise permitted by the Chief Building Official, every application shall include:
 - (a) Site address, name, e-mail and telephone numbers of the owner and the contractor performing the work,
 - (b) a site-plan that will identify the location of the *pool*, the dwelling, any *pool* equipment, the well and septic bed location and distance from the *pool* to each property line of the property;
 - (c) the dimensions of the *pool* being installed including the diameter or length, width, and depth as well as height above grade if applicable;
 - (d) details including the material and height of the proposed *enclosure* to be installed around the *pool* and the gate location(s) in the enclosure
 - (e) if a deck larger than 10m² (108ft²) is proposed to serve the *pool* an accompanying building permit application with construction details is required
11. Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed work will comply with this By-law and any other applicable law.
12. The Chief Building Official may revoke a permit issued,

- (a) if it was issued on mistaken, false or incorrect information;
- (b) if, after six (6) months after its issuance, the construction in respect of which it was issued has not, in the opinion of the Chief Building Official, been seriously commenced; or
- (c) if it was issued in error.

POOL ENCLOSURES AND EQUIPMENT LOCATION

13. Every *above-ground pool, below-ground pool, hybrid-pool* or any other *pool* shall be provided with an *enclosure* that meets the following criteria:

- (a) have a minimum height of 1.2 meters (4 feet);
- (b) shall be of a close boarded, chain link or other approved design, to reasonably deter children from climbing to gain access to the enclosed area;
- (c) shall have no openings under or in the enclosure that are greater than 100mm (4in) in diameter;
- (d) gates shall be such that they provide protection equivalent to the approved enclosure and shall be equipped with a self-closing and self-latching device located at the top and inside of the gate; and
- (e) shall contain no barbed wire or device to apply an electrical current
- (f) shall be lockable.
- (g) a temporary fence shall be erected during installation of the pool. It is the applicants responsibility to ensure safety during installation

14. Paragraph 13 does not apply to *above-ground pools* that meet the following criteria:

- (a) the *pool* has a sidewall height of at least 1.2m (4ft) above *established grade*;
- (b) sidewalls are smooth and have no horizontal projections of any type on the exterior of the pool side that will facilitate climbing;
- (c) no *pool* equipment or other climbable surface above *established grade* located within 1.2m (4ft) of the sidewall of the *above-ground pool* and;
- (d) is provided with a removable ladder or a ladder that can be locked in a non-climbable or upright position when the pool is not in use

15. An adjacent deck that is within 1.2m (4ft) of the pool must meet the enclosure requirements.

GENERAL POOL REQUIREMENTS

16. Every owner of every pool shall ensure that all entrances to the pool area, including gates, doors and windows are kept locked at all times except when a responsible adult is supervising the use of the pool

17. A private pool and water circulating or treatment equipment shall not:

- (a) Be built or placed closer than 7.5m (25ft) to an exterior lot line
 - (b) Be built or placed closer to the front lot line than the main building or closer than 15m (50ft) to the front lot line, whichever is the lesser, where the main building is setback more than the minimum distance required by the Zoning By-law
 - (c) Be built or placed closer than 3m (10ft) to any interior side lot line or rear lot line
18. All *pool/s* will be required to meet zoning set-back requirements from municipal drains, natural water courses, waterbodies, and environmental protection zones (EP) as any accessory structure.
19. All electrical components and equipment appurtenant to a *pool* shall require a certificate of inspection by the Electrical Safety Authority.

OFFENCE AND PENALTIES

20. When an enclosure is not erected or maintained, in accordance with the provisions of this By-law, the Chief Building Official shall send a notice by registered mail or by hand to the owner of the land on which the pool is located, at his or her last known address requiring him or her to make the enclosure conform to the requirements of this By-law and the notice shall specify the time allowed for compliance.
21. Where the Chief Building Official pursuant to Section 17 has sent a notice, and the requirements of the notice have not been complied with, the Council may cause the work to be done and the cost of the work shall be at the expense of the owner.
22. When the Council causes the work to be done pursuant to subsection (a), the Township may recover the expense incurred in like manner as municipal taxes.
23. Every person who contravenes any of the provisions of this By-law is guilty of an offence.
24. Every person who is convicted of an offence is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter. P. 33 as amended.
25. When a person has been convicted of an offence under this By-law, the Ontario Court of Justice; or any court of competent jurisdiction thereafter, may, in addition to any penalty imposed on the person convicted, issue an Order prohibiting the continuation of repetition of the offence by the person convicted,
26. This By-law may be called the Swimming Pool By-law.

27. That By-law No. 99-18 is hereby repealed.

BY-LAW read, passed, signed and sealed in Open Council this 12th day of March 2019.

Stephen Fournier, Reeve

Cindy Halcrow, Clerk Administrator