

THE CORPORATION OF THE TOWNSHIP OF
SOUTH FRONTENAC

BY-LAW 2014-33

BEING A BY-LAW TO REGULATE ENCLOSURES AROUND
PRIVATELY OWNED OUTDOOR SWIMMING POOLS
(POOL FENCE BY-LAW).

WHEREAS pursuant to section 9 of the Municipal Act, 2001 S.O. 2001, chapter 25, (the Act) as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to section 8. (1) of the Act, as amended, sections 9 and 11 shall be interpreted broadly so as to confer broad authority on municipalities (a) to enable them to govern their affairs as they consider appropriate; and (b) to enhance their ability to respond to municipal issues;

AND WHEREAS pursuant to section 11. (2) of the Act as amended, a lower-tier municipality has the authority to pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS pursuant to section 11. (3) of the Act, as amended, a lower-tier municipality has the authority to pass by-laws respecting structures, including fences and signs;

AND WHEREAS pursuant to section 436 of the Act, as amended, a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance of a by-law of the municipality passed under this Act.

AND WHEREAS pursuant to section 438 of the Act, as amended, a municipality has the power to pass by-laws providing that the municipality may, in the circumstances set out in the by-laws, undertake inspections pursuant to orders under section 438 of the Act.

NOW THEREFORE THE COUNCIL OF CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1 Non-defined terms

Definitions of words and phrases used in this By-law that are not included in the list of definitions shall have the meanings which are commonly assigned to them in the context in which they are used in this By-law taking into account the specialized use of terms with the various trades and professions to which the terminology applies.

1.2 Defined Terms

In this By-law,

1.2.1 Enclosure: Means a fence, wall, or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.

1.2.2 Fence: Means a barrier constructed of chain link metal, wood, stone, metal, or material having an equivalent degree of strength.

1.2.3 Gate: Means a swinging or sliding barrier used to fill or close an access and includes a door.

- 1.2.4 Officer: Means a Municipal Law Enforcement Officer, and includes the Chief Building Official or designate.
- 1.2.5 Permit or Pool Enclosure Permit: means written permission or written authorization from the Chief Building Official to perform work regulated by this By-law.
- 1.2.6 Person: includes, but is not limited to, an individual, association, firm, partnership corporation, trust, incorporated company, organization, trustee or agent.
- 1.2.7 Privately Owned Outdoor Swimming Pool: Means any privately-owned body of water located outdoors contained by artificial means in which the depth of the water at any point can exceed eighteen inches (18") and used or capable of being used for swimming, wading, diving, and bathing. *Excluding; any naturally formed depressions in the ground, a natural body of water, a farm pond or irrigation pond used to water livestock or for irrigation operations, any garden or fish or decorative pond used as landscaping features, or any storm water management facility.*
- 1.2.8 Service Entrance: Means that entrance into a building which is normally used by persons entering such building for the purpose of delivering goods or rendering maintenance services as opposed to the main or principal entrance.

2. GENERAL PROVISIONS

- 2.1 No person shall:
- 2.1.1 excavate or cause or permit excavation for the erection of a privately-owned outdoor swimming pool without a Pool Enclosure Permit first being obtained from the Township;
- 2.1.2 place water in or allow water to remain in a privately-owned outdoor swimming pool unless the Township has inspected the enclosure and confirmed compliance with this By-law.
- 2.2 Every Owner of a privately-owned outdoor swimming pool shall ensure that all enclosure requirements specified in this By-law are complied with.
- 2.3 Every owner of a privately-owned outdoor swimming pool shall, ensure that every gate and door required by paragraphs 3.8 and 3.9 is equipped with a locking device, and shall be kept locked at all times if there is more than eighteen inches (18") of water in the swimming pool and a responsible person is not present and supervising the swimming pool.

3. ENCLOSURES

- 3.1 Every owner of a privately-owned outdoor swimming pool shall erect and maintain around it a fence and a gate or gates in accordance with the following requirements. This applies to all owners of all pools, including those constructed prior to the passage of this By-law.
- 3.2 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.
- 3.3 Such enclosure, including gates therein, shall;
- 3.3.1 Be a minimum height of five feet (5') above the ground, measured on the non-pool side of the enclosure, or;

3.3.2 Where an above-ground pool is a minimum height of five feet (5') above ground that shall be level for a distance of at least four feet (4') beyond the pool wall, with no climbable features contained thereon. An enclosure will not be required, provided the sides of the pool are smooth-faced and non-climbable and that the step/ladder shall:

- a) be manufactured to be easily removable without the use of tools when the pool is unattended; or
- b) be manufactured to be swung upwards and locked in the upright position; or
- c) be enclosed by a fence and gate in accordance with subsection 3.7 of this By-law.

3.4 Notwithstanding the provisions of Section 3.3 a pool installation is deemed to comply if the installation was legally installed before January 1, 2003, provided that:

3.4.1 In the case of an above ground swimming pool, the pool wall is a full four feet from the ground or,

3.4.2 A pool is protected by a perimeter fence a full four feet high and meets the requirement of section 3.7 and,

3.4.3 Gates and openings are a full four feet high and meet the other provisions of section 3.8.

3.4.4 The owner completes additional safety features at the discretion of the Chief Building Official.

3.5 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.

3.6 Except as provided in 3.7.6, such enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.

3.7 A fence forming part of such enclosure shall be of a vertically boarded wood construction, chain link construction, or of other materials and construction as provided in clause 3.7.6.

3.7.1 Shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence or gate(s).

3.7.2 Fence location may occur on the property line but in no case be closer than four feet (4') to the pool or any climbable structure.

3.7.3 If constructed on the property line, shall be finished in such manner as to present the most attractive side thereof toward neighbouring property.

3.7.4 If of chain link construction, shall;

- (a) Be of not greater than one and one half inch (1½") diamond mesh.
- (b) Be constructed of galvanized steel wire not less than No.12 gauge or of minimum No.14 gauge steel wire covered with a vinyl or other approved coating forming a total thickness equivalent to No.13 gauge galvanized wire.

- (c) Be supported by at least one and one half inch (1½") diameter galvanized steel posts, each covered by a minimum of two inches (2") of concrete from grade to a minimum of two feet (2') below grade, such posts to be spaced not more than ten feet (10') apart. Top and bottom rails shall be provided of one and one quarter inch (1¼) minimum diameter galvanized steel, except that a one quarter inch (1/4") 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;

3.7.5 If of wood construction, shall;

- (a) 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 not less than one inch by four inch (1"x 4") nominal dimensions, spaced not more than one and one half inches (1½") apart.
- (b) Be supported by a minimum of four inch (4") square or four inch (4") diameter posts, nominal dimensions, spaced not more than eight feet (8') on centers securely embedded to a minimum of two feet (2') 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 wood two inches by four inches (2" x 4") minimum nominal dimensions, spaced four feet (4') minimum apart.

3.7.6 An enclosure may be of construction other than that specified, provided an equivalent degree of safety is maintained and shall;

- (a) Be constructed so that the rigidity is equal to that specified for those fences described in clauses 3.7.4 and 3.7.5.
- (b) Be permitted to have exposed structural or other members that may facilitate climbing the outside of the enclosure, provided the minimum clear vertical distance between the upper and the lower two (2) members or part thereof, is four feet (4') and regardless of the location of such members, where this minimum (4') four feet vertical dimensions is maintained, the least dimension of any opening through such fence/gate may be increased to not more than that required to prevent the passage of a spherical object having a diameter of four inches (4").

3.8 Gates forming part of such enclosure shall;

3.8.1 Be of construction and height equivalent to that required for the fence, and;

- (a) Be supported on substantial hinges, and;
- (b) Be equipped with self-closing device, and also equipped with a self-latching and locking device placed at the top and on the inside of the gate, and;
- (c) Shall not abut township owned property except with written approval by Council

3.9 Doors subject to the provisions of paragraph 3.5 that provide access from building directly to the enclosed swimming area, other than doors located in a dwelling unit or a rooming unit (i.e. main door from garage, etc.) shall each be self-

closing and self-latching and shall be equipped with a locking device located not less than five feet (5') above the bottom of the door.

- 3.10 No perimeter fencing is required for hot tubs, whirlpools, and spas provided they are equipped with a rigid top that is specifically designed and manufactured for use on the model of hot tub, whirlpool, or spa that is installed and is capable of being locked.

4. ADMINISTRATIVE PROCEDURES RELATING TO PERMITS

4.1 Application Requirements

4.1.1 Every person applying for a Pool Enclosure Permit shall provide and ensure that an application is completed in its entirety and be accompanied by;

- (a) The plans, specifications, documents, forms and other information prescribed in Schedule "A" of this By-law.
- (b) All required permit fees are paid as provided in Schedule "B" of this By-law as may be amended from time to time.

4.2 Posting of Permits

Every Owner shall post conspicuously on the work site, the Pool Enclosure Permit placard that is issued with the permit and shall be responsible for the maintaining of the placard in a legible condition until the work allowed by the permit is complete.

4.3 Revision to Permit

After the issuance of a Pool Enclosure Permit, notice of any material change to a plan, specification, document or other information on the basis of which the permit was issued, must be given in writing, to the Chief Building Official together with the details of such change, which is not to be made without the Chief Building Official's written authorization.

4.4 Revocation of Applications and Permits

4.4.1 The Township has the authority to revoke an application or a Pool Enclosure Permit issued under this By-law where:

- (a) the application is incomplete and remains incomplete three (3) months after it was submitted;
- (b) the application is complete, a permit is available to be issued, and three (3) months has elapsed from the date upon which the Owner was notified that the permit was available;
- (c) after three months (3) 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.

4.4.2 Where an application or Pool Enclosure Permit is revoked, any monies deposited towards the payment of permit fees are not subject to the refund and all plans and documents may be destroyed in accordance with the Record Retention By-law.

5. SEVERABILITY AND RESTRICTIVE PROVISIONS

- 5.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid such section or part of a section shall not be

construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.

- 5.2 Where the provisions of this By-law conflict with the provisions of any other by-law or Act, the more restrictive provisions shall apply.

6. POWERS OF ENTRY

- 6.1 An Officer may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- 6.1.1 the provisions of this By-law;
- 6.1.2 a direction or order issued under this By-law;
- 6.1.3 an order made under Section 431 of the Act.

7. NOTICE OF NON-COMPLIANCE

- 7.1 An Officer may issue a notice of non-compliance to any person who has contravened a provision of this By-law.

8. OBSTRUCTION

- 8.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Act or under a by-law passed under the Act.
- 8.2 Any person who has been alleged to have contravened any of the provisions of a By-law passed under the Act, shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties,

9. PENALTY PROVISIONS

- 9.1 Any person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine as provided in the Provincial Offences Act R.S.O. 1990, c. P.33, as may be amended from time to time.

10. SHORT TITLE

- 10.1 This By-law may be cited as "the "Pool Fence By-law".

11. SCHEDULES

- 11.1 That Schedule "A", being the Required Supporting Documents & Drawings to an Application for a Pool Enclosure Permit, is attached hereto and forms part of this By-law.

12. REPEAL

- 12.1 That By-law 2002-97 is hereby deemed repealed.

13. FORCE AND EFFECT

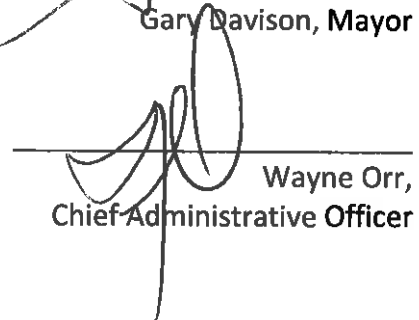
13.1 That this By-law shall come into force and effect on June 1, 2014.

Read a first and second time this 20th day of May 2014.

Read a third time, signed and sealed this 20th day of May, 2014.



Gary Davison, Mayor



Wayne Orr,
Chief Administrative Officer

SCHEDULE "A" OF BY-LAW 2014-33

**BEING A BY-LAW TO REGULATE BEING A BY-LAW TO REGULATE ENCLOSURES AROUND
PRIVATELY OWNED OUTDOOR SWIMMING POOLS WITHIN THE TOWNSHIP OF SOUTH
FRONTENAC**

PLANS, SPECIFICATIONS AND DOCUMENTATION REQUIREMENTS

The Owner shall provide with a completed application form, the following supporting documents and drawings:

1. Site Plan:

- a) showing the location of all existing structures (including septic system) on the property in relation to the lot line;
- b) showing the location of all existing easements, right-of-ways and swales;
- c) showing the location of the adjoining street(s);
- d) showing the location of the proposed Pool and Enclosure including setbacks to all the lot lines;
- e) showing the location and size of proposed structures (sheds, decks, retaining walls, etc..) including setbacks to all the lot lines;
- f) showing the location of all gates, labelled as "self-closing" and "self-latching";
- g) showing the location of all of doors within walls of building or structure proposed to form part of the Pool Enclosure.
- h) construction specifications and/or drawings of all permanent Enclosure fences and walls;
 - (i) showing all materials proposed to be used and their orientation
 - (ii) showing all proposed openings, with dimension
 - (iii) indicating overall height(s) of Enclosure fences or walls
 - (iv) If applicable, specification documents of protective covers proposed for use on hot tubs, whirlpools, and spas.

2. Other Documentation

- a) Copies of authorizations/permits from other approving agencies (Applicable Law approvals)
- b) Copy of deed or recent municipal Tax Bill (proof of ownership)
- c) Copy of survey

In addition to the foregoing items, other information may be required to enable the Chief Building Official to determine whether the proposed work conforms this By-law.

SCHEDULE "B" OF BY-LAW 2014-33

**BEING A BY-LAW TO REGULATE BEING A BY-LAW TO REGULATE ENCLOSURES AROUND
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PERMIT FEES AND SECURITY DEPOSIT

1. Defined Terms.

The following words and terms in this Schedule have the following meaning for the purposes of this Schedule.

Project Value means the total estimate value of construction cost, which includes the cost of construction, professional designer compensation, and other similar charges.

2. Deposits

A non-interest bearing refundable deposit of \$500.00 shall be posted by the applicant to be refunded once the conditions of By-law 2014-33 have been complied with.

3. Fees

Pool enclosure permit fee is \$14.00 per thousand dollars of project value, minimum \$60.00, and subject to the following provisions;

- a) The Chief Building Official shall not issue a permit until fees required by this By-law have been paid in full by the applicant.
- b) The Chief Building Official may place a valuation on the cost of the proposed project as contained in this Schedule and where disputed by the applicant, the applicant shall pay the required fee under protest and, within six months of completion of the project, shall submit an audited statement of the actual costs. Where the Chief Building Official, in his sole discretion, agrees that the audited costs are less than the valuation, the Chief Building Official may issue a partial refund that reflects the difference between the two amounts.
- c) The Fees set out in this Schedule shall be adjusted annually on and effective the 1st of February based upon the 3rd quarter Statistics Canada Non-Residential Cost Index: Ottawa; where such index indicates negative growth, the fees shall remain at the level established for the prior year. The Chief Building Official shall update this Schedule as of February 1st each year, rounding the fees up to the next dollar, however no amendment to the by-law shall be required to give effect to the fee changes.
- d) Where any Fees set out in this Schedule remain unpaid after the due date, the amount unpaid shall be added to the tax roll and collected as taxes.