

**THE CORPORATION OF THE TOWNSHIP OF SMITH-ENNISMORE-LAKEFIELD
BY-LAW NUMBER 2001-59
THE PROTECTION OF PERSONS & PROPERTY BY-LAW**

AND WHEREAS The Municipal Act, R.S.O. 1990, cM.45, Section 210, Paragraph 30 requires amongst other things the 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 Township of Smith-Ennismore-Lakefield enacts as follows:

1. SHORT TITLE

This By-Law may be cited as "The Pool By-Law".

2. DEFINITIONS

In this By-Law, the definitions hereinafter set out shall apply.

BUILDING INSPECTOR OR INSPECTOR	an Inspector appointed by the Municipality pursuant to the provision of this By-Law, and includes the Chief Building Official and the Municipal Engineer.
CHIEF BUILDING OFFICIAL	appointed by the Municipality pursuant to the provision of this By-Law.
CONSTRUCT	to do anything in the erection, installation, extension or material alteration or repair, or removal of any building or structure of any part thereof.
CONSTRUCTION VALUE materials,	means the total value of all design services, labour, overhead and related services attributable to and/or required for the design and construction of the work for which an application has been submitted.
EFFECTIVE GRADE LEVEL	means the average level of ground at a particular location taking into consideration the surrounding ground level for a horizontal distance of 1.2m (4 feet) either side of the locations being considered.
HOMEOWNER	shall mean the owner of a building who is engaged in performing plumbing work for himself.
MUNICIPALITY	refers to the Corporation of the Township of Smith-Ennismore-Lakefield.
NOTICE BY MUNICIPALITY	means written notice either personally delivered or sent by prepaid registered mail to the owner at the address shown in the last revised assessment roll. If sent by prepaid registered mail, the notice shall be deemed to be received on the fifth day after mailing.
OWNER	includes a lessee, tenant, mortgagee in possession and the person in charge of land for which a Building Permit is to be, or has been, obtained.
PERMIT	permission or authorisation in writing by the person having jurisdiction to regulate the work.
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 610 mm (24 inches) and is used or is capable of being used for swimming, or diving purposes. Not included in this definition is any swimming pool owned by a public or government body, agency or authority.
SERVICE ENTRANCE	means the entrance into a building which is normally used by persons delivering goods or rendering maintenance service as opposed to the main or principle entrance. For the purposes of this By-Law any building entrance other than the principle entrance may be considered to be a service entrance.

- SWIMMING POOL** means any body of water outdoors contained by an artificial structure, and used or maintained for the purpose of swimming, wading, bathing or diving.
- SWIMMING POOL AREA** means the swimming pool plus any surrounding platforms, walkways, play areas and landscaped areas within the swimming pool enclosure.
- SWIMMING POOL ENCLOSURE** includes a fence, wall or other structure, doors, gates and other opening, surrounding an outdoor swimming pool.
- TEMPORARY ENCLOSURE** means a fence, used for the purposes of temporarily enclosing a swimming pool or pool excavation.

SECTION 3 PERMITS

- 3.1 No person shall excavate for, 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 Municipality.
- 3.2 An application for a permit to construct a swimming pool enclosure around a privately-owned outdoor swimming pool shall be submitted 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 in duplicate showing all details of the proposed work.
- 3.3 An application for a permit shall:
- a) State the estimated value of construction.
 - b) Be accompanied by the required fee as calculated in accordance with Schedule "A".
 - c) Be signed by the applicant who shall certify as to the truth of the contents of the application.
- 3.4 No person shall be issued a permit without first complying with the provisions of the Zoning By-Law of the Municipality of Smith-Ennismore-Lakefield in respect of privately owned outdoor swimming pools.
- 3.5 No person shall connect any drain or water supply directly to a privately owned swimming pool without first obtaining a plumbing permit from the Municipality.

SECTION 4 SWIMMING POOL ENCLOSURE REQUIREMENTS

- 4.1 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.
- 4.2 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 are erected and maintained.
- 4.3 A privately owned outdoor swimming pool while under construction shall be enclosed with a temporary enclosure as defined herein except where the swimming pool enclosure requirements are in existence.
- 4.4 A temporary enclosure shall consist of a 1.2m (4 foot) high plastic mesh fence having a mesh or greater than 38mm (1 1/2 in), with a steel T-bar post every 3.0 m (10 feet) maximum and a 9 ga. galvanised steel wire located at the top and bottom of such fence; or be constructed of material that will provide an equivalent degree of safety.
- 4.5 Every privately owned outdoor swimming pool shall be enclosed by a swimming pool enclosure which extends from 50mm (2 inches) above the effective grade level to a minimum vertical height of:
- (i) 1.2m (4 feet) in the case of a privately owned outdoor swimming pool serving a detached, semi-detached, row house or multiple family development of not more than four dwelling units.
 - (ii) 1.5m (5 feet) in the case of a privately owned outdoor swimming pool serving a multiple family development containing more than four dwelling units or a commercial development, such as a hotel, motel, swimming pool sales display, or a club.
- 4.6 The wall of a building may form part of the required swimming pool enclosure provided that the main entrance to the building is not located in such wall, and any service entrance located therein shall have a self closing door equipped with a self latching device located not less than 1.5m (5 feet) above the bottom of the door.

- 4.7 No members or attachments that could facilitate climbing are permitted on the exterior face of a swimming pool enclosure, between 100mm (4 inches) and 1.5m (5 feet) from the effective grade level.
- 4.8 No swimming pool enclosure shall be located closer than 1.2m (4 feet) to any condition that facilitates the climbing or the enclosure unless the height of the swimming pool enclosure is 1.5m (5 feet) for a distance of at least 1.0m (3.3 feet) on either side of such condition.
- 4.9 The swimming pool enclosure shall be constructed in accordance with Sections 5 and 6 of this By-Law.

SECTION 5 FENCES AS SWIMMING POOL ENCLOSURES

5.1 A fence which is to form a swimming pool enclosure or part thereof shall be of:

- (i) Chain link construction
- (ii) Vertical board Construction
- (iii) of such other materials and construction that will provide an equivalent degree of safety or
- (iv) a combination of (i), (ii), and (iii)

5.2 A fence of chain link construction shall:

- (i) have a mesh not greater than 38mm (2 inches) consisting of 12 ga galvanised steel wire, or of 14 ga. steel wire covered with vinyl or other approved plastic which would yield a total thickness equivalent to 12 ga. wire;
- (ii) be supported by minimum 38mm (1 1/2 inch) galvanised steel posts spaced not more than 3.0m (10 feet) apart. Such posts must extend at least 0.9m (3 feet) below grade for a fence 1.2m (4 feet) high and 1.2m (4 feet) below grade for a fence 1.5m (6 feet) high;
- (iii) have top and bottom rails firmly fastened to the upright posts, made of minimum 32mm (1 1/4 inch) galvanised steel pipe. (A galvanised steel tension rod 5mm may be substituted for the bottom rail.)

5.3 A fence of vertical board construction shall:

- (i) have vertical boarding 25mm (1 inch) thick nominal attached to a top and bottom rail in such a manner as to not facilitate climbing from the outside. Such vertical boards must not be less than 23mm x 100mm (1 inch x 4 inches) nominal and must be spaced not more than 38mm (1 1/2 inches) apart;
- (ii) be supported by posts at least 100mm x 100mm (4 inch x 4 inch) nominal, spaced not more than 2.4m (8 feet) apart. Such posts shall extend at least 0.9m (3 feet) into the ground for a 1.2m high fence and 1.2m (4 feet) into the ground for a 1.5m (6 feet) high fence and be securely embedded therein. The portion below grade shall be treated with an approved wood preservative or be of pressure treated wood;
- (iii) have top and bottom rails of least 50mm x 100mm (2 inches x 4 inches) nominal dimensions.

5.4 Fences that form part of the required swimming pool enclosure shall:

- (i) contain no barbed wire, electrical wiring, sharp projections or any other dangerous characteristics either on the outside or inside;
- (ii) be located not less than 1.2m (4 feet) from the nearest inside wetted surface of the swimming pool wall.

SECTION 6 GATES AND ENTRANCES TO THE SWIMMING POOL AREA

6.1 Gates which form a part of the swimming pool enclosures 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 on the top and on the inside of the gate;
- (iv) equipped with a locking device.

6.2 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 locked at all times except when the swimming pool is being supervised by a responsible adult person.

6.3 When a wall or portion thereof, of any building located on the same property as a swimming pool enclosure forms part of such enclosure, no entrances to the pool area shall be permitted through such wall, unless;

- (i) any door at the entrance way shall be self closing and equipped with a self latching device located not less than 1.5m (5 feet) above the bottom of the door;
- (ii) such wall is located no closer than 1.2m (4 feet) from the nearest inside wetted surface of the swimming pool wall.

SECTION 7 ABOVE GROUND SWIMMING POOLS, HOT TUBS, WHIRLPOOLS AND SPAS

7.1 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 enclosures around the entire pool except as provided in Subsection 7.2.

7.2 (i) the exterior sides of the swimming pool structure is in excess of 1.2m (4 feet) above the effective grade level and is constructed in a manner that will not facilitate climbing;
(ii) a guard of not less than 1.0m (3.3 feet) in height is provided around any platform or deck and is constructed in a manner that will not facilitate climbing;
(iii) any integral platform or deck provided around an above ground swimming pool shall have a minimum width of 1.0m (3.3 feet) measured from the inside wetted wall of the pool.

7.3 Any gate or entrance to an above ground swimming pool shall be protected in accordance with Section 6 of the By-Law.

7.4 Structures known as "hot tubs", "whirlpools", and "Spa's" need not comply with requirements of Section 4 and Section 5 of this Bylaw provided that a secure cover sufficient to close the opening is placed over the opening and is locked to prevent access when the structure is not in use.

SECTION 8 PENALTIES

8.1 Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to the fines and penalties prescribed by the Provincial Offences Act, R.S.O. 1990 c. P.33. as amended.

SECTION 9 REPEAL AND TRANSITION

9.1 By-law Number 1998-13 of the former Township of Smith-Ennismore, By-law Number 80-54 of the former Township of Lakefield and By-law 1999-27 of the Township of Douro-Dummer as it relates to the annexed area described in Schedule "A" of the Ministers Order dated February 10, 2000 are hereby repealed.

9.2 Notwithstanding Sub-section 6.1 hereof, the provisions of the preceding By-Laws continue to apply to any swimming pool enclosure or fence legally existing on property on the day of passing of this By-Law until such time as the existing fence is replaced.

9.3 This by-law shall come into effect on the 10th day April, 2001

Read a first, second and third time and finally passed this the 10th day of April, 2001.

Reeve - Burritt Mann

Clerk - Janice Lavalley

Corporate Seal

SCHEDULE "A" TO BY-LAW # 2001-22

FEES

**Column 1
Class of Permit**

**Column 2
Permit Fee**

Swimming Pool
the work

\$8.50 per \$1,000.00 or part thereof of estimated valuation of
With a minimum fee of \$50.00.