

**THE CORPORATION OF THE TOWNSHIP OF BROCK**

**BY-LAW NUMBER 1936-2005-PP**

**BEING A BY-LAW TO REGULATE AND REQUIRE OWNERS OF PRIVATELY OWNED OUTDOOR SWIMMING POOLS OR HOT TUBS TO ERECT AND MAINTAIN FENCES AND GATES AROUND SUCH POOLS.**

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WHEREAS the Municipal Act S.O. 2001, as amended, Section 11(2), authorizes the passing of a By-law for prescribing the height and description of lawful fences around privately owned outdoor swimming pools and hot tubs.

NOW THEREFORE THE COUNCIL OF THE TOWNSHIP OF BROCK ENACTS AS FOLLOWS:

**TITLE**

- 1.1 This By-law may be cited as the swimming pool fence By-law.

**DEFINITIONS**

- 2.1 FENCE shall mean any structure constructed of posts, boards, palings, rails, wire, masonry or similar materials or any combination thereof to enclose any outdoor area or define a property boundary.
- 2.2 HEIGHT shall mean the distance measured from the grade to the highest point of the fence exclusive of the posts.
- 2.3 HOT TUB shall mean any artificially enclosed body of water consisting of water heating units and/or air jets for bathing or other purposes as intended and shall include a whirlpool or spa or other similar device.
- 2.4 MUNICIPALITY shall mean the Corporation of the Township of Brock.
- 2.5 OFFICER shall mean a Municipal Law Enforcement Officer or a Building Inspector employed by the Township of Brock.
- 2.6 OWNER shall mean the person in possession of the property on which the swimming pool is located.
- 2.7 PERSON shall mean an individual, sole proprietorship, partnership, limited partnership, trust or body corporate, or an individual in his or her capacity as a trustee, executor, administrator or other legal representative.
- 2.8 SWIMMING POOL shall mean a privately owned outdoor swimming pool which includes any body of water or pool located on privately owned property contained in part or in whole by artificial means and designed or intended for swimming, diving or bathing, but does not include a pool that is less than 61 centimeters (24 inches) in height or depth, or combination thereof.
- 2.9 SWIMMING POOL ENCLOSURE shall mean a fence as required by this By-Law and used to enclose a swimming pool or hot tub.

### GENERAL PROVISIONS

- 3.1 No person shall erect a fence, gate, excavate for or erect a privately owned swimming pool or hot tub until plans for such fences, gates and swimming pool have been submitted, and a permit certifying approval has been issued by the Chief Building Official, upon payment of the prescribed fee.
- 3.2 No person shall place water in a privately owned swimming pool or hot tub or allow water to remain therein unless the enclosure prescribed by this By-law has been erected.
- 3.3 Previously constructed and approved pool enclosures shall be considered legal. Pool enclosures which have not received prior approval shall comply with the regulations and conditions prescribed in this By-Law.
- 3.4 Replacement or construction of all swimming pool enclosures shall conform to the provisions of this By-Law.
- 3.5 Subject to the provisions of the Municipality's Comprehensive Zoning By-law, no person shall construct, erect, maintain or permit to be constructed, erected, or maintained, on any property a fence which, in the opinion of the Officer, by reason of its location, design or materials, obstructs the vision of drivers, either when leaving a roadway or when entering a roadway from another roadway or driveway, or which obstructs or detracts from the visibility or effectiveness or any traffic sign or control device on a public street or which, for any other reason, constitutes a hazard.

### PROVISIONS FOR FENCES

- 4.1 The fence to enclose a swimming pool or hot tub shall be constructed in a good workmanlike manner and shall meet the following requirements:
  - (1) Every fence shall not be less than 1.2 metres (4 feet) in height nor greater than 2.14 metres (7 feet) in height subject to general provisions as set out in this By-law;
  - (2) Every fence shall be constructed of vertically boarded wood, solid wood, chain link, masonry, plastic, metal or other materials and construction providing an equivalent degree of safety and acceptable to the Building Inspector;
  - (3) Every fence shall be so constructed that no rails or other horizontal or diagonal bracing or attachments that may facilitate climbing, shall be located on the outside of the fence;
  - (4) Every fence shall be constructed in such a manner that:
    - (a) Vertical boards shall not be less than 1.9 centimetres (.75 inches) by 8.9 centimetres (3.5 inches) lumber and shall be spaced not more than 3.8 centimetres (1.5 inches) apart where horizontal rails are spaced less than 1.2 metres (4 feet) apart and not more than 10.16 centimetres (4 inches) apart where horizontal rails are spaced at least 1.2 metres (4 feet) apart.

- (b) Where vertical boards of 1.9 centimetres (.75 inches) by 8.9 centimetres (3.5 inches) have been used and the horizontal spacing exceeds 3.8 centimetres (3.5 inches), a vertical board of not less than 1.9 centimetres (.75 inches) by 3.8 centimetres (1.5 inches) may be used as a spacer to reduce the horizontal opening to less than the minimum required 3.8 centimetres (3.5 inches).
  - (c) Vertical boards shall be attached to horizontal rails that are not less than 3.8 centimetres (1.5 inches) by 8.9 centimetres (3.5 inches) lumber and that are supported on substantial posts with a minimum dimension of 8.9 centimetres (3.5 inches) spaced not more than 2.4 metres (8 feet) apart and embedded to a minimum depth of 90 centimetres (35.4 inches) below grade.
  - (d) The maximum space between the grade level and the bottom of the fence shall not exceed 10.16 centimetres (4 inches) at any point.
- (5) A metal picket fence used to enclose a swimming pool shall be constructed in such a manner that;
- (a) Vertical pickets shall be spaced not more than 3.8 centimetres (1.5 inches) apart where horizontal rails are spaced less than 1.2 metres (4 feet) and not more than 10.16 centimetres (4 inches) apart where horizontal rails are spaced at least 1.2 metres (4 feet) apart.
  - (b) Horizontal rails shall be supported on substantial posts not more than 2.4 metres (8 feet) apart and embedded in concrete to a minimum depth of 90 centimetres (35.4 inches) below grade.
- (6) Every chain link fence shall be constructed so that it complies to the following requirements;
- (a) There shall be no opening that exceeds a horizontal dimension greater than 5.1 centimetres (2 inches).
  - (b) The mesh gauge shall consist of 12 gauge galvanized steel wire or 14 gauge steel wire covered with vinyl coating or such other equivalent material.
  - (c) The gate and terminal posts shall be minimum 4.8 centimetres (1.9 inches) diameter and embedded in the ground to a depth of 76 centimetres (30 inches) in 20 centimetres (8 inches) diameter concrete.
  - (d) Intermediate posts shall be minimum 3.8 centimetres (1.5 inches) diameter and embedded 76 centimetres (30 inches) in the ground.
  - (e) The top rail shall be a minimum 3.2 centimetres (1.25 inches) and the bottom wire shall be minimum 9 gauge galvanized, threaded through the mesh and looped and fastened to each post.

- (f) The gate frame shall be minimum 3.2 centimetres (1.25 inches) and the posts shall be spaced a maximum distance of 2.4 metres (8 feet).
- (7) Every fence shall be constructed or erected to have the only means of entry through the fence be by approved gates or doors which provide a degree of safety acceptable to the Building Inspector.
- 4.2 No person shall construct, erect, maintain or cause to be constructed, erected or maintained, any swimming pool fence which contains barbed wire.
- 4.3 No person shall construct, erect, maintain or cause to be constructed, erected or maintained, any swimming pool fence which contains any device for projecting an electrical current through the swimming pool fence.
- 4.4 A swimming pool enclosure shall be designed and constructed so that the principal entrance to any main building shall be located outside the enclosed area.
- 4.5 Where a wall of a building forms part of a swimming pool enclosure, any entrance through the wall to the enclosed area shall be no closer than 1.2 metres (4 feet) horizontally to the water's edge of the pool and shall be protected by a door that is;
  - (1) Kept locked at all times except when the enclosed area is in use.
  - (2) Self-closing, self-latching and equipped with a lockable device installed at least 1.53 metres (5 feet) above floor level if the door leads from any other area than a living area of a building.
- 4.6 A swimming pool gate shall meet the following requirements:
  - (1) Every gate shall be a minimum height of 1.2 metres (4 feet) and meet the requirements of section 4.1.
  - (2) Every gate shall be supported on substantial hinges and shall be equipped with self-closing and self-latching devices placed at the top and on the inside of the gate providing a degree of safety acceptable to the Building Inspector.
  - (3) Every gate shall be of the same construction equivalent to that required of the fence.
  - (4) Every gate shall extend down to within 10.16 centimetres (4 inches) of the ground or floor level.
- 4.7 The provisions of this By-law requiring the erection of a fence shall not apply to an above ground pool that complies with the following standards.
  - (1) Not less than 1.2 metres (4 feet) above grade,
  - (2) A guard not less than 91.4 centimetres (36 inches) high is provided around any platform or deck,
  - (3) The outside walls of any swimming pool structure and any guard is free of any element or attachment that may facilitate climbing,

- (4) No part of the swimming pool or adjoining deck structure are located closer than 1.2 metres (4 feet) to any lot line, and
- (5) The point where a user of the above ground pool gains access to the pool is protected by a gate and enclosure which complies with Section 4 of this By-Law.

- 4.8 There shall be a minimum 1.2 metre (4 feet) separation between the fence and the exterior edge of an inground swimming pool.
- 4.9 Notwithstanding Section 4.1 to 4.8 above, a hot tub, which is enclosed by a substantial, structurally adequate hard cover permanently attached to it, or to its supporting structure and the cover is securely fastened and locked to prevent access at all times when not in use, shall be exempt from the fence provisions of this Section.
- 4.10 Every owner of a hot tub shall keep the hot tub covered and locked at all times when a responsible person is not present and supervising its use.


**PENALTIES**

- 5.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

**FEES**

- 6.1 The fee to obtain a swimming pool enclosure permit shall be \$75.00.
- 7.1 That Part 6 of By-law 786-85-PP is hereby repealed.

**THIS BY-LAW READ A FIRST AND SECOND TIME AND PASSED THIS 31<sup>ST</sup> DAY OF JANUARY, 2005.**

  
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MAYOR

  
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CLERK-ADMINISTRATOR

**THIS BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 31<sup>ST</sup> DAY OF JANUARY, 2005.**

  
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MAYOR

  
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CLERK-ADMINISTRATOR