

The Corporation of the Township of Guelph/Eramosa

By-law Number 30/2005

A by-law to require the erection and
Maintenance of fences and gates around
swimming pools and hot tubs.

WHEREAS the Municipal Act, S.O. 2001, c. 25, s. 11, provides that a municipality may pass by-laws respecting structures, including fences;

AND WHEREAS the Council of the Corporation of the Township of Guelph/Eramosa considers it in the best interest of the health, safety and well-being of the inhabitants of the municipality to pass a by-law requiring owners of privately owned outdoor swimming pools to erect and maintain fences and gates in a prescribed manner around such swimming pools;

NOW THEREFORE the Council of the Corporation of the Township of Guelph/Eramosa enacts as follows:

1. Definitions

For the purpose of this by-law:

- (a) "Chief Building Official" means the Chief Building Official of the Corporation of the Township of Guelph/Eramosa or designate.
- (b) "Fence" means an enclosure surrounding a swimming pool, including a gate, wall or other like structure, restricting access thereto.
- (c) "Gate" means the part of a fence, which provides access through the fence line.
- (d) "Ground Level" means the highest level of the ground at any point around the exterior of a swimming pool or around the exterior side of a fence.
- (e) "Lock" means a keyed or combination lock and "Locked" has a corresponding meaning.
- (f) "Owner" means the owner, tenant, lessee or other person in care and control of the property on which a swimming pool is situated,
- (g) "Person" includes a corporation.
- (h) "Swimming pool" means a body of water located outdoors on private property contained by artificial means, including a hot tub, which is designed to be used for swimming, wading, diving or bathing, in which the depth of water at any point can exceed 600mm (23 ½ inches), but does not include:
 - i. a natural or man-made pond, lagoon, water reservoir or manure storage facility;

- ii. a public swimming pool, which is subject to, the regulations made pursuant to the Building Code Act, 1992, S.O., 1992 c. 23;
 - iii. naturally occurring streams, lakes, swamps or other natural bodies of water.
- (i) "Temporary Fence" means a temporary fence used for the purpose of enclosing a swimming pool or excavation in the course of construction of a swimming pool, to effectively prevent access thereto and to prevent any accident or injury to any person in or on a property.
 - (j) "Site plan" means a drawing illustrating the location and dimensions of a swimming pool and the fence surrounding a swimming pool and the dimensions and location of ladders and other stair assemblies providing access to swimming pool decks or other appurtenances.

2. **Swimming pool Permit**

- (a) No person shall excavate for, install, construct or erect a swimming pool in the Township of Guelph/Eramosa without a permit to do so issued by the Township.
- (b) No swimming pool permit shall be issued unless the site plan for such swimming pool, and any change made thereto, is approved by the Chief Building Official.
- (c) Every person applying for a swimming pool permit shall provide to the Chief Building Official:
 - i. a site plan for the proposed construction of the swimming pool showing fence and gate locations;
 - ii. a completed application form as provided by the Township of Guelph/Eramosa; and
 - iii. the applicable permit fee as set out in the Township of Guelph/Eramosa Rates and Fees By-law No. 59/2002, as amended from time to time.

3. **Water in Swimming pools**

No person shall place water in or allow water to remain in a swimming pool until:

- (a) the swimming pool is surrounded by a fence which is in full compliance with all provisions of this by-law; and
- (b) the Building Department has been notified and an inspection passed by the Chief Building Official or designate.

4. **Fencing Requirements**

- (a) Every owner of a swimming pool shall ensure that a fence is erected and maintained surrounding a swimming pool in accordance with the requirements of this by-law.
- (b) A temporary fence shall be constructed during construction of the swimming pool and shall be replaced when the swimming pool construction is substantially completed with a permanent fence conforming to this by-law in all respects.

A temporary fence shall be erected in a good workmanship manner and shall consist of:

- i. steel "T" posts spaced at not more than 1.2 metres on centre embedded at least 600mm into the ground;
 - ii. 38mm plastic mesh fencing at least 1.2 metres in height and securely fastened to the posts at 200mm on centre vertically and at the top and bottom by 11 gauge steel lacing cable threaded through the mesh and looped and fastened to each post or equal.
- (c) Every owner of a swimming pool shall ensure that the fence surrounding the swimming pool:
- i. is located at least 500mm (1 foot, 8 inches) away from any other fence or other permanent object that may facilitate climbing of the swimming pool fence;
 - ii. is erected and maintained in a structurally sound condition so as to prevent access to the swimming pool when the swimming pool is not in use;
 - iii. has a maximum opening of 100mm (4 inches) between the bottom of the fence and the ground at any point directly below the fence. The ground beneath the fence cannot be of loose gravel or other material which can be easily removed so as to afford access under the fence;
 - iv. does not have any barbed wire forming any part of the fence or forming any appurtenance thereto;
 - v. is not capable of projecting electric current through any portion of the fence or any appurtenance thereto;
 - vi. where such fence is constructed with vertical members, the maximum opening between each vertical member is 100mm (4 inches) and has no horizontal rails less than 1.2 metres (4 feet) apart;
 - vii. shall be of the following material: wood, metal, masonry or plastic;
 - viii. shall have its framing and braces on the inside or swimming pool side of the fence;
 - ix. shall be of the following type:
 - a. vertical louver, picket, staggered picket, wrought iron or other metal fence having no separation between vertical

components exceeding one and one-half inches, which separation may be increased to not more than 100mm (four inches), the fence is at least 1.5m (five feet) high and has no horizontal rails less than 1.2m (four feet) apart; or

- b. horizontal louver, providing that the louvers have separations not exceeding 2.54cm (1 inch) measure at right angles to the two surfaces, are set at an angle of not less than forty-five degrees to the horizontal and slope upward toward the inside or swimming pool side of the fence;
- c. solid; or
- d. chain link, held taut at top and bottom and with diamond mesh not greater than 38mm (1 1/2 inches) per link;
- x. is constructed and maintained in such a manner so as to prevent the climbing thereof;
- xi. be located at least 600mm (23 5/8 inches) from the edge of the water in the swimming pool;
- xii. shall not enclose a utility meter, a furnace oil filler pipe or other utility reading device which requires inspection or attendance by utility or service personnel.

(d) Fence Height

In every case such fence shall:

- i. where the swimming pool is located on the property of a single-detached or semi-detached dwelling, have a height of not less than 1.5m (4 feet 11 inches) measured from ground level to the top of the fence; or
- ii. where the swimming pool is located on property other than that of a single-detached or semi-detached dwelling, have a height of not less than 1.8m (5 feet, 11 inches) measured from ground level to the top of the fence.

(e) Above Ground Pool

Notwithstanding Section 4 of this by-law, a fence surrounding a swimming pool is not required where the swimming pool is an above-ground swimming pool and where:

- i. the vertical sides of the swimming pool and any deck or other assembly forming part of the swimming pool are the same minimum height as the fence height requirements pursuant to Section 4 (d) (i) (ii) respectively;
- ii. such vertical sides and assemblies are constructed and maintained in such a manner to prevent the climbing thereof; and
- iii. any ladder or stair assembly providing access to the swimming pool or to any deck or other assembly forming part of the swimming pool is hinged and constructed in a manner

so as to be latched in an upright position or gated, thereby preventing entry to the swimming pool.

(f) Hot Tubs

Notwithstanding Section 4 of this by-law, when any swimming pool is a hot tub, the owner of such swimming pool shall ensure that:

- i. all fence provisions of this by-law are complied with; or
- ii. such hot tub is fitted with a lid or cover that withstands human weight without collapse and such lid or cover is locked in place at all times when the hot tub is not in use.

5. Gates and Ladders

(a) Every owner of a swimming pool shall ensure that any access points forming part of the fence are gated and kept locked, except when the swimming pool or pool area is being used, and that:

- i. every gate is equipped with a self-closing mechanism and a self-latching device and such mechanisms and devices are in proper working order at all times;
- ii. every self-latching device is installed on the swimming pool side of each gate near the top of the gate and such device is at least 1200mm (3 feet, 11 inches) above ground level;
- iii. where the swimming pool is an above-ground pool, every ladder or other stair assembly providing access to the swimming pool is locked in the upright position at all times when the swimming pool is not being used;

(b) Notwithstanding Section 5(a) (i) of this by-law, a self-closing and self-latching mechanism shall not be required on a gate where such mechanism is deemed by the Chief Building Official as not practical for the type of fence and gate being used; however, in all such cases, every owner of a swimming pool shall install and maintain comparable hardware as indicated by the Chief Building Official on the site plan or the permit issued by the Township.

6. Compliance with Other By-laws Required

The issuance of a permit by the Township authorizing the excavation, installation, construction, or erection of any swimming pool and swimming pool fence within the Township of Guelph/Eramosa does not permit or condone the violation of any other by-law in effect in the Township.

7. Exemption

A permit shall not be required under this by-law for any swimming pool for which a permit was issued by the former Townships of Guelph and, Eramosa, or the former Townships of Nichol and Pilkington which apply to the areas now within the Township of Guelph/Eramosa, provided that the swimming pool and fence was constructed in compliance with the by-law

under which such permit was issued and continues to be maintained in a safe and sound condition.

8. Offence

Every person who contravenes any provision of this by-law is guilty of an offence.

9. Penalty

Every person who is convicted of an offence under any provision of this by-law shall be liable to a penalty as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, or any amendment thereto.

10. Prior By-laws Repealed

This by-law repeals former Township of Guelph By-law No. 12-73 and former Township of Eramosa By-law No. 39-93; and

This by-law further repeals Township of Pilkington By-law No. 96-93 and Township of Nichol By-law No. 1556-89, which may apply to the areas now within the Township of Guelph/Eramosa that have been passed for the provision of the erection and maintenance of fences and gates around swimming pools and hot tubs.

READ three times and finally passed
this 2nd day of **May, 2005.**

Clint Martin, Mayor

Janice Sheppard, Clerk