

# THE CORPORATION OF THE TOWNSHIP OF MAPLETON

## BY-LAW NUMBER 2005-004

Being a by-law to require the erection and maintenance of fences and gates around swimming pools.

**WHEREAS** the *Municipal Act, S.O. 2001, c.25*, Sections 8 and 11(2), authorizes the passing of a By-law requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates.

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MAPLETON ENACTS AS FOLLOWS:**

#### 1. DEFINITIONS

- 1.1 This By-law may be cited as the Private Swimming Pool Fence By-law.
- 1.2 "Privately-owned outdoor swimming pool" means any body of water located outdoors on privately owned property contained by artificial means and in which the depth of water at any point can exceed 900 millimetres (3 feet) and used or maintained for swimming, wading, diving or bathing.
- 1.3 "Ground level" means the highest level of the ground at any point around the exterior of the swimming pool or around the side of the fence furthest from the pool.
- 1.4 "Fence" means a fence, wall or other structure, including doors and gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

#### 2. PERMITS AND RESTRICTIONS

- 2.1 No person shall excavate for a privately-owned swimming pool, or install, construct or erect a privately-owned swimming pool until a permit has been issued by the Chief Building Official for the Township of Mapleton and until the appropriate fees for the permit have been paid as set out pursuant to the Township of Mapleton Building By-law 99-39 as amended by By-law No. 99-59.

- 2.2 No person shall erect, maintain, or have a privately owned swimming pool unless she/he erects and maintains completely around such swimming pool a fence in accordance with the provisions of this By-law.
- 2.3 No person shall fill a privately owned outdoor swimming pool with water, or allow water to remain therein, until the provisions of this By-law have been compiled with in respect to swimming pool fences and gates.
- 2.4 No person shall install, erect, construct, have or maintain a privately-owned outdoor swimming pool unless all gates and doors giving access to a privately-owned outdoor swimming pool are locked at all times, except when the fenced-in area is actually being used by the owner or persons duly authorized by the owner.

### 3. PRESCRIBED STANDARDS

- 3.1 No person shall erect, have or maintain a privately owned outdoor swimming pool for the use of the occupants of a single detached residence unless the fence has a height above ground level of not less than 1500 millimetres (5 feet). Every fence around a privately owned outdoor swimming pool for use other than a single detached residence shall have a height above ground level of not less than 1800 millimetres (6 feet).
- 3.2 Notwithstanding section 3.1, any privately owned outdoor swimming pool erected and constructed prior to the date this By-law came into effect which had a fence constructed around it with a height above ground level of not less than 1200 millimetres (4 feet) shall be deemed to comply with the provisions of section 3.1 so long as such fence is maintained.
- 3.3 No person shall erect a fence required by this By-law unless such a fence is located less than 900 millimetres (3 feet) from other fences or similar permanent objects that would facilitate climbing, or the fence is increased to a height of 1800 millimetres (6 feet) and will adequately prohibit unauthorized entry.
- 3.4 No person shall erect or maintain a fence required by this By-law unless the openings beneath it and the ground level is less than 75 millimetres (3 inches)
- 3.5 No person shall erect a fence required by this By-law unless such fence is
  - 3.5.1 Of chain construction and shall
    - 3.5.1.1 Be of not greater than 50 millimetres (2 inches) diamond mesh, and
    - 3.5.1.2 Be constructed of galvanized steel wire not less than 2.680 millimetre (0.105 inches) diameter, or of a minimum 2.032 millimetre (0.08 inches) diameter steel wire covered with a vinyl or other approved coating forming a total thickness equivalent to 2.680 millimetre (0.105 inches) diameter galvanized wire, and
    - 3.5.1.3 Be supported by at least 38 millimetre (1 ½ inches) diameter galvanized steel posts each covered by a minimum of 50 millimetres (2 inches) of concrete from grade to minimum of 600 millimetres (2 feet) below grade, such posts to be spaced not more than 3050 millimetres (10 feet). Top and bottom horizontal rails

shall be provided of 31 millimetre (1 ¼ inch) minimum diameter galvanized steel, except that a 6 millimetre (1/4 inch) 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.

### 3.5.2 Of wood construction and shall

3.5.2.1 Have the vertical boarding attached to supporting members, all of which are arranged in such a manner as not to facilitate climbing from the outside. Such vertical boards shall not be less than 17 millimetre (5/8 inch) by 89 millimetre (3 ½ inches) nominal dimensions spaced not more than 75 millimetres (3 inches) apart, and

3.5.2.2 Be supported by a minimum of 89 millimetres (3 ½ inches) square or 89 millimetre (3 ½ inch) diameter wood posts, nominal dimensions, spaced not more than 2240 millimetres (8 feet) on centers securely embedded to a minimum of 610 millimetres (2 feet) below grade. The portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood 38 millimetres (1 ½ inches) by 89 millimetres (3 ½ inches) minimum nominal dimensions.

### 3.5.3 Of construction other than that specified in 3.5.1 and 3.5.2, provided an equivalent degree of safety is maintained and shall

3.5.3.1 Be constructed so that the rigidity is equal to that specified in 3.5.1 and 3.5.2, and

3.5.3.2 Be permitted to have exposed structural or other members or parts thereof that may facilitate climbing the outside of the enclosure provided the minimum clear vertical distance between any such members, or parts thereof, is 1500 millimetres (5 feet) and, regardless of the location of such members, where this minimum 1500 millimetres, (5 feet) vertical dimension is maintained the least dimension of any opening through such fences may be increased to not more than that required to prevent the passage of a spherical object having a diameter of 100 millimetres (4 inches) as long as such openings do not facilitate climbing.

- 3.6 No person shall erect a fence required by this By-law consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence.
- 3.7 No person shall erect a fence required by this By-law having fence designs with horizontal members, such as wood basketweave or wood lattice, or designs that will facilitate climbing.
- 3.8 A boundary fence that complies with the provisions of this By-law shall be deemed a sufficient fence.
- 3.9 Above-ground swimming pools, with vertical sides not less than 1800 millimetres (6 feet) high which are constructed so as not to facilitate climbing need not have an enclosing fence around the perimeter, provided access points are fenced in accordance with this By-law, and the outside enclosure is equivalent to the standards for fences in the By-law.

#### 4. OFFENCE

- 4.1 Every person who contravenes any provision of this By-law:
  - 4.1.1 is guilty of an offence; and
  - 4.1.2 upon conviction therefore is liable to fine or penalty of not more than Five Thousand (\$5,000.00) Dollars as prescribed in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

5. SEVERABILITY

5.1 If any section, subsection, clause, paragraph or provision of this By-law is found by any board of competent jurisdiction to be invalid or beyond the powers of the Council to enact, such section, subsection, clause, paragraph or provision shall be deemed to be servable from the remainder of this By-law and all other sections or parts of this By-law shall be deemed to be separate and independent there from and are enacted as such.

6. REPEAL OF PREVIOUS BY-LAWS

6.1 Township of Peel By-law Number 95-24 and Village of Drayton By-law Number 904-87 are hereby repealed.

7. DATE AND EFFECT

7.1 This by-law shall come into effect on the date of passing.

**READ** a first and second time this 8<sup>th</sup> day of February, 2005.

**READ** a third time and passed this 8<sup>th</sup> day of February, 2005.

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Mayor John C. Green

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Deputy Clerk Barbara Schellenberger