

THE CORPORATION OF THE MUNICIPALITY OF TWEED

BY-LAW NUMBER 99-16

BEING A BY-LAW PRESCRIBING THE HEIGHT, DESCRIPTION, ERECTION AND MAINTENANCE OF FENCES AND GATES AROUND PRIVATELY OWNED OUTDOOR SWIMMING POOLS.

WHEREAS pursuant to paragraph 23, Section 210, Chapter 45 of the Municipal Act R.S.O. 1990 as amended, a municipality may pass by-laws requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such pools and for prescribing the height and description of and manner of erecting and maintaining, such fences and gates; and

WHEREAS The Corporation of the Municipality of Tweed deems it necessary to pass such by-law:

NOW THEREFORE the Corporation of the Municipality of Tweed enacts as follows:

PART I - TITLE

This By-Law may be referred to as the "Swimming Pool Fence By-Law"

PART II - DEFINITIONS

1. POOL FENCE

Shall mean a fence, wall or other structure, including doors and gates, surrounding privately owned outdoor swimming pool to restrict access thereto.

2. OUTDOOR SWIMMING POOL

Shall mean any privately owned body of water located outdoors contained in part or in whole by artificial means in which the depth of the water at any point can exceed 60 centimeters (24 inches) and used or capable of being used for swimming, wading, diving or bathing.

3. SWIMMING POOL AREA

Shall mean the swimming pool plus the surrounding platforms, walkways, play areas and landscaped areas within the fence enclosing a swimming pool.

PART III - PERMITS

No person shall excavate for, cause or permit excavation for, any pool or erect or cause or permit the erection of any pool or pool fence without first obtaining a permit from the Chief Building Official.

PART IV - POOL FENCE REQUIREMENTS

1. POOL FENCE

No person shall fill a privately owned outdoor pool with water or allow water to remain therein unless a pool fence completely enclosing the entire Swimming Pool area has been constructed and is being maintained at all times in accordance with the requirements of this By-law.

2. CONSTRUCTION FENCE

A pool under construction shall be enclosed with a temporary fence as detailed herein except where the permanent pool fence requirements have been satisfied.

3. HEIGHT

- (a) The height of a pool fence above finished grade measured at any point along the fence at the exterior face, if located not less than 1.2 metres (4 feet) from the nearest inside wetted surface of the swimming pool wall, shall be a minimum of 1.5 metres (5 feet).
- (b) If the fence is located less than 1.2 metres (4 feet) from the nearest inside wetted surface of the swimming pool wall, the fence shall be a minimum of 1.8 metres (6 feet).

4. CLEARANCE

- (a) A maximum space of 50 millimetres (2 inches) is permitted between the bottom of a pool fence and the finished grade.
- (b) A pool fence shall be located not less than 1.2 meters (4 feet) from the nearest inside wetted surface of the swimming pool wall.
- (c) No pool fence shall be located closer than 1.2 meters (4 feet) to any condition that facilitates the climbing of the enclosure, unless alternative measures are implemented to provide an equivalent level of safety as set out in this by-law.

5. CLIMBABILITY

Subject to Part IV Paragraph 4, no member or attachment that could facilitate climbing shall be permitted on the exterior face of a pool fence, between 100 millimetres (4 inches) and 1.5 meters (5 Feet) from grade.

6. LOCKS

The owner of every pool shall ensure that every gate or door providing access to such swimming pool be kept locked at all times when a responsible person is not present and supervising the pool.

PART V - FENCE CATEGORIES

1. CONSTRUCTION

Every pool fence shall be constructed in accordance with the appropriate categories as follows;

2. A fence, which encloses a pool, shall be one of the following:

(a) CHAIN LINK CONSTRUCTION

- i) A mesh not greater than 38 millimeters(1 1/2 in consisting of 12 gauge galvanized steel wire, or 14 gauge steel wire with approved covered of vinyl or plastic which would yield a total thickness equivalent to 12 gauge.
- ii) Galvanized steel supporting posts spaced at maximum 3 meters, (10 feet), intervals and extended at least 0.9 meters, (3 feet) below grade for a fence not exceeding 1.5 meters in height, (5 feet).
- iii) End posts and corner posts of minimum 48 millimeters, (1 7/8 inches), diameter, encased in concrete at least 50 millimeters, (2 inches) thick all around below grade.

- iv) Intermediate posts of minimum 38 millimeters, (1 1/2 inches) diameter encased in concrete at least 50 millimeters, (2 inches) thick all around below grade when more than 15 meters, (50 feet) from an end post, a corner post or an intermediate post that is similarly encased.

(b) VERTICAL BOARD

- i) Have a vertical boarding 25 millimeters, (1 inch), thick 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 23 millimeters by 100 millimeters, (1 inch by 4 inch) nominal, and must be spaced not more than 25 millimeters, (1 inch), apart.
- ii) Be supported by posts at least 89 millimeters x 89 millimeters (3½ inches by 3½ inches), spaced not more than 2.4 meters, (8 feet), apart. Such posts shall extend at least 0.9 meters (3 feet) into the ground for a fence 1.5 meters (5 feet) high 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 at least 50 millimeters by 100 millimeters (2 inches by 4 inches) nominal dimensions.
- iv) Have no openings that would allow the passage of a spherical object having a diameter larger than 50 millimeters, (2 inches).

(c) TEMPORARY FENCE

Shall consist of 1.2-meter (4 feet) in height having openings not greater than 38 millimeters, (1½ inch) supported every 3 meters (10 feet) maximum. A temporary fence shall be permitted during construction of a pool and must be replaced prior to the pool being filled.

(d) SPINDLE CONSTRUCTION

Shall consist of spindles 50 millimeters by 50 millimeters (2 inches by 2 inches) spaced in a manner that have no openings that would allow the passage of a spherical object having a diameter larger than 50 millimeters, (2 inches)

(e) OTHER MATERIALS

Constructed in a manner that will provide an equivalent degree of safety.

(f) COMBINATION

Any combination of 2(a), (b), (c), (d) or (e).

- 3. Any other types of fences including retaining walls and deck guards to serve as pool fences shall be constructed in accordance with the requirements for a vertical board fence.

PART VI - GATES AND ENTRANCES TO THE SWIMMING POOL AREA

- 1. Gates, which form a part of the pool fence, shall be:
 - (a) Of construction and height equivalent to or greater than that of the required pool fence.
 - (b) Supported on substantial hinges.
 - (c) Self closing and equipped with a self-latching device placed at the top and on the side of the gate.
 - (d) Lockable.

2. All entrances to the swimming pool area which form part of the pool fence, whether they be doors, windows or gates, shall be kept latched at all times except when the swimming pool is being supervised by a responsible adult person.
3. When a wall or portion thereof, of any building located on the same property as a pool fence, forms part of such fence, no entrances to the pool area shall be permitted through such wall, unless such wall is located no closer than 1.8 meters (6 feet) from the nearest inside wetted surface of the swimming pool wall.

**PART VII - ABOVE GROUND SWIMMING POOLS
WHIRLPOOLS, HOT TUBS AND SPAS**

1. Above ground swimming pools require the same type of pool fencing as inground pools.
2. Part III to VII inclusive of this By-Law does not apply to structures known as "hot tubs" "whirlpools" and "spas", provided a secure cover of rigid material is placed over the opening, and no person leave the hot tub, whirlpool or spa without first locking the cover in place to prevent access when the structure is not in use.

PART VIII - PENALTIES

Any person who contravenes any of the provisions of this by-law is guilty of an offence and, upon conviction, is liable to a fine of not more than Five Thousand Dollars (\$5,000.00) for each offence committed.

PART IX - ENFORCEMENT

This By-Law shall be enforced by the By-Law Enforcement Officer and the Chief Building Official for the Municipality of Tweed.

PART X - REPEAL

This by-law repeals the following:

- (a) By-law 78-12 of the former Village of Tweed
- (b) By-law 1088 of the former Township of Hungerford
- (c) By-law 356 of the former Township of Elezvir and Grimsthorpe

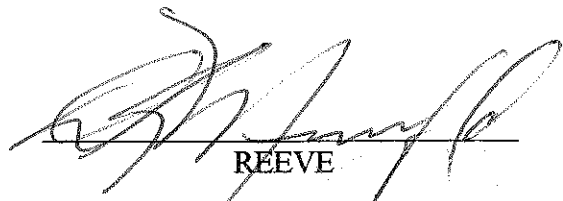
PART XI - EFFECTIVE DATE

This By-law shall come into force and effect on date of passing.

Read a First and second time this 18th day of May 1999.

Read a Third and final time, passed, signed and sealed in open Council this... 21st..... day of

... June, 1999.



REEVE



CLERK