



BY-LAW

NO. 2001 – 58

A BYLAW TO PROVIDE FOR THE FENCING OF PRIVATELY OWNED SWIMMING POOLS

WHEREAS pursuant to paragraph 30 of section 210 of the Municipal Act R.S.O. 1990, c. M45, as amended, a by-law may be passed to issue permits for swimming pool fences and to prescribe safety standards for privately owned outdoor swimming pools,

WHEREAS section 220.1 of the Municipal Act, R.S.O. 1990, c.M45, as amended by section 10 of Schedule M of the Savings and Restructuring Act, 1996 provides that the Council may by by-law impose fees for services and activities provided or done by or on behalf of the Corporation of the Municipality of Kincardine;

AND WHEREAS it is expedient to impose fees for certain services provided by the Building Department;

NOW THEREFORE the Municipal Council of the Municipality of Kincardine **ENACTS** as follows:

In this by-law:

1. (a) **"Fence"** means either:
 - (i) Chain link fencing, or at least 13 gauge, of not less than one and one half metres (1.5 metres) (5 feet) and supported by iron posts set in concrete to a depth of at least six-tenths metres (0.6 metres) (2 feet) and spaced not more than three metres (3 metres) (10 feet) apart, with a supporting rail along the top of the fence between posts; or
 - (ii) A privacy fence with the material installed vertically and such fence being not less than one and one-half (1.5 metres) (5 feet) in height.

Fencing of Private Swimming Pools By-law
By-Law No. 2001 – 58
Page 2 of 3

- (b) **"Swimming Pool"** means any structure, basin, chamber or tank containing any artificial body of water for swimming, diving or recreational bathing:
- (a) has a depth of more than 75 centimetres (29 inches) at any point, and;
 - (b) has a surface area of more than 1 square metre (10.8 square feet), and;
 - (c) is not under the jurisdiction of the Building Code, and;
 - (d) is not completely inside a building, and;
 - (e) is not owned by government or a local board or commission constituted under any statute or by-law, and;
 - (f) is not a pond or reservoir to be utilized for farming purposes and;
 - (g) but excludes hydro massage pools, and;
 - (h) excludes storm water management ponds.
2. Every owner of a privately owned outdoor swimming pool shall erect and maintain completely around such pool a fence. The height of the swimming pool fence shall be measured from the ground level on the outside of the enclosure and shall be of sturdy construction, capable of preventing unauthorized entry.
- (i) No part of the fence shall be less than one and two-tenths (1.2 metres) (4 feet) from the edge of the water in the pool.
 - (ii) Every fence shall have gates which shall be the same height as the fence, shall be supported by substantial hinges and shall be equipped with a self-closing, self-latching device which shall be placed on the top on the inside of the gate. A self-latching device that can be opened without a key from the outside shall not be less than 122 centimetres (48 inches) above ground level.
 - (iii) Such gates shall be kept closed and locked at all times when the owner of the swimming pool or his or her duly authorized agent is not present and supervising the swimming pool.
 - (iv) Every fence shall have a clearance from the ground to the under side of the pool fence that would prevent the passage of a spherical object having a diameter of 10 centimetres (4 inches).
 - (v) The provisions of the By-law requiring erection of a fence shall not apply if the entire outside wall of the swimming pool is elevated at least one and one-half (1.5 metres) (5 feet) above the grade of the ground abutting such wall and each entrance to the pool is protected by a gate of a height equal to the height of the pool and having self closing, self-latching devices as provided in Section 2 (ii) and (iii) and/or detachable ladder which shall be removed from the pool at all times when such pool is not under competent supervision.
 - (vi) No part of such fence shall consist of barbed wire.
 - (vii) Any device for projecting an electric current through such fence is prohibited.

Fencing of Private Swimming Pools By-law
By-Law No. 2001 – 58
Page 3 of 3

3. A permit shall be obtained from the Chief Building Official of the Municipality of Kincardine by the owner or his legal authorized agent for the excavation and construction of the outdoor swimming pool, fences and gates. No such work shall be commenced and no person shall proceed with any such work until a permit therefore has been first obtained from the Building Department.
4. No owner of a privately owned outdoor swimming pool shall release or permit to remain any water in such swimming pool until a fence has been erected in accordance with this By-law.
5. Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offence Act.
6. The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
7. Where anything required to be done in accordance with this by-law is not done, the Chief Building Official for the Corporation of the Municipality of Kincardine appointed pursuant to the Building Code act may, upon such notice as he/she deems suitable, do such thing at the expense of the person required to do it and such expense may be recovered by action or in like manner as municipal taxes.
8. By-law No. 1998-30 for the Town of Kincardine passed on the 9th day of July, 1998,
76-10 for the Village of Tiverton passed on the 10th of August 1976,
93-7 for the Township of Bruce passed on the 9th of March, 1993 and
82-14 for the Township of Kincardine passed on the 17th of May, 1982
and all of their amendments be hereby repealed.
9. This by-law shall come into full force and effect on it final passing.
10. This by-law may be cited as the "Fencing of Private Swimming Pools" By-law.

READ a FIRST, SECOND and THIRD time and DEEMED TO BE PASSED this 23rd day of May ,2001.

[Redacted Signature]

Mayor

[Redacted Signature]

Deputy Clerk

