

The Corporation of the Municipality of West Perth

By-law No. 044-2012

Being a By-Law to provide for the Owners of Privately Owned Outdoor Swimming Pools To Erect and Maintain Fences

WHEREAS the Council of the Municipality of West Perth deems it necessary in the public interest to pass a By-Law to regulate fences around privately owned outdoor swimming pools;

AND WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, C25 as amended, (the "Municipal Act") authorizes a municipality to pass by-laws respecting fences;

AND WHEREAS Section 123 of the Municipal Act authorizes a municipality for the purpose of public safety, to regulate with respect to deep waters and other dangerous places;

AND WHEREAS Section 436 of the Municipal Act authorizes a municipality to pass by-laws providing that a person who contravenes a by-law passed under this act is guilty of an offence;

AND WHEREAS Section 391 (1) (a) of the Municipal Act, 2001 authorizes a municipality to impose fees or charges on persons for services or activities provided or done by or behalf of it.

NOW THEREFORE the Council of the Municipality of West Perth enacts as follows:

1. All privately owned outdoor swimming pools on lands in the Municipality of West Perth shall be fenced in accordance with the requirements of this By-Law.
2. Every person shall, during the construction of an in ground swimming pool; enclose the swimming pool area with temporary fencing, as approved by the Chief Building Official.
3. In any designated residential zone, as per Municipality of West Perth Zoning By-Law 100-1998, where the pool fence functions as a boundary fence between two or more adjacent properties as a swimming pool fence, the provisions of this by-law prevail over any other Municipal By-Law that regulates fences.
4. In all other zones, in which a swimming pool is permitted, as per Municipality of West Perth Zoning By-Law 100-1998, an in ground swimming pool fence must be 4.5 metres from the wall of the pool.
5. A swimming pool fence must have the following specifications:
 - i. Have a minimum height of 1.2 metres above the finished grade level.
 - ii. Shall be a chain linked fence, vertical wooden fence, vertical metal fence, wall, building or other type of fencing acceptable to the Chief Building Official.
 - a) Where the fence type is a chain link fence, the openings, holes, or gaps shall not permit a solid spherical object with a diameter greater than 6 centimetres to pass through it.
 - b) Where the fence type is a vertical wooden fence or vertical metal fence, the openings, holes or gaps shall not be greater than 10 centimeters.
 - c) Where the fence type is another type of fencing acceptable to the Chief Building Official, the size of the openings, holes, or gaps must also be acceptable to Chief Building Official.

- d) Where a fence is a wall or building.
 - iii. Where a gate(s) is provided, such gate(s) shall be self closing and latched in the closed position.
 - iv. Buildings and Structures such as dwellings and accessory buildings shall be permitted as part of the required fencing under this By-Law provided that such buildings and structures have a controlled access (i.e. doors capable of being locked) and provided that such buildings and structures conform to the required yard provisions.
 - v. The bottom of the required fence shall not be more than 7.5 centimetres above the finished grade level.
 - vi. When dealing with above ground swimming pools, the exterior wall of such swimming pools may serve as the required fence for the purpose of this By-law provided that such walls have a minimum height of 1.2 metres above the finished grade level.
 - vii. Where above ground swimming pools are accessed by ladder, steps, or deck areas (or other similar structures) such ladder, steps or decks areas must be enclosed by a fence or gate constructed in accordance with the regulations pertaining to fences in Section 4 stated above. Where above ground outdoor swimming pools are accessed by ladders or steps that can be raised or detached, the said ladders or steps that can be raised or detached, the said ladders or steps must remain raised or detached when the swimming pool is not in use.
6. Where a lawfully existing swimming pool and enclosure has been constructed in accordance with the regulations of the swimming pool By-Law existing at the time, nothing shall prevent the use and maintenance of that swimming pool and enclosure.
 7. If at any time a swimming pool or its enclosure is replaced; the new fence shall be constructed in accordance with the requirements of this by-law.
 8. No person shall excavate for or erect a privately owned outdoor swimming pool until a building permit has been issued based upon:
 - i. Plans of all fences and gates required pursuant to this By-law are produced and submitted to the Municipality of West Perth; and
 - ii. The Chief Building Official, Building Inspector and/or authorized agent are satisfied with the type of fencing proposed; and
 - iii. All permanent fencing required is put in place 45 days after initial construction of an outdoor swimming pool.
 9. 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 Offences Act.
 10. By-Law 73-2002 and all previous By-Laws regulating privately owned swimming pools are hereby repealed.
 11. That this by-law shall come into force and takes effect on the date of its final passing.
 12. That the Mayor and the Clerk are hereby authorized to sign this By-law;

Read a first and second time this 22nd day of May 2012.

Mayor Walter McKenzie

Clerk Susan Cronin

Read a third and final time and finally passed this 22nd day of May 2012.

Mayor Walter McKenzie

Clerk Susan Cronin