

THE CORPORATION OF THE CITY OF GUELPH

By-law Number (1994)-14660

A By-law respecting fences and gates around swimming pools and to adopt Municipal Code Amendment No. 147 and to repeal By-law Numbers (1980)-10314, (1989)-13247 and (1992)-14270.

WHEREAS the Council of the Corporation of the City of Guelph has, pursuant to The Municipal Act, R.S.O. 1990, Chapter M.45, Section 210, Paragraph 30, authority to enact this By-law;

THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

INTERPRETATION

1. For the purposes of this By-law the following terms shall have the corresponding meanings:
 - (a) "**Chief Building Official**" means the Chief Building Official of the Corporation of the City of Guelph or his or her designate;
 - (b) "**City**" means the Corporation of the City of Guelph;
 - (c) "**Fence**" means a fence, wall or other like structure and includes Gates;
 - (d) "**Gate**" means the part of a Fence which provides access through the Fence line;
 - (e) "**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;
 - (f) "**Lock**" means a keyed or combination lock and "Locked" has a corresponding meaning;
 - (g) "**Owner**" means the owner, tenant, lessee or other person in care and control of the property on which a Swimming Pool is situate;
 - (h) "**Person**" includes a corporation;
 - (i) "**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; and
 - (j) "**Swimming Pool**" means any privately-owned outdoor body of water, including a hot tub, which is designed to be used for swimming, diving or bathing in which the depth of water at any point can exceed 600mm (23 1/2 inches).

PERMIT REQUIRED

2. (a) No Person shall excavate for, install, construct or erect a Swimming Pool in the City of Guelph without a permit to do so issued by the City.
- (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.

PERMIT APPLICATION

3. (a) 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 and Fence;
 - (ii) a completed application form as provided by the Chief Building Official; and
 - (iii) the applicable permit fee.
- (b) The fee for a Swimming Pool permit shall be at the same rate as that required for a building permit issued by the City.

WATER IN SWIMMING POOLS

4. No Person shall place water in or allow water to remain in a Swimming Pool when the Swimming Pool is not surrounded by a Fence which is in full compliance with all provisions of this By-law.

FENCE HEIGHT

5. (a) Every Owner of a Swimming Pool shall ensure that a Fence is erected and maintained surrounding such Swimming Pool and in every case the 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 1500mm (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 1800mm (5 feet, 11 inches) measured from Ground Level to the top of the Fence.
- (b) Notwithstanding Section 5(a) 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 Sections 5(a)(i) and 5(a)(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 thereby preventing entry to the Swimming Pool.

HOT TUBS

- 6. (a) Notwithstanding Section 5(a) 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.

FENCES

- 7. (a) 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;
 - (iv) where such Fence is chain link, does not have diamond mesh greater than 50mm (2 inches) per link;
 - (v) does not have any barbed wire forming any part of the Fence or forming any appurtenance thereto;
 - (vi) is not capable of projecting electric current through any portion of the Fence or any appurtenance thereto;
 - (vii) where such Fence is constructed with vertical members, the maximum opening between each vertical member is 100mm (4 inches); and
 - (viii) is constructed and maintained in such a manner so as to prevent the climbing thereof.
- (b) Notwithstanding Section 7(a)(i) of this By-law, the Swimming Pool Fence may be constructed within 500mm (1 foot, 8 inches) of

another Fence or other permanent object provided that the height of the Swimming Pool Fence is authorized by the Chief Building Official and such authorization is entered on the Site Plan or on the permit issued by the City.

- (c) Notwithstanding Section 7(a)(vii) of this By-law, where any horizontal members of the Swimming Pool Fence are less than 1200mm (3 feet, 11 inches) apart, the maximum opening between the vertical members of the Fence shall be 50mm (2 inches).

GATES AND LADDERS

8. (a) Every Owner of a Swimming Pool shall ensure 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) every Gate is Locked at all times when the Swimming Pool or pool area is not being used; and
 - (iv) where the Swimming Pool is an above-ground Swimming 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 8(a)(i) of this By-law, a self-closing 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 City.

COMPLIANCE WITH OTHER BY-LAWS REQUIRED

9. The issuance of a permit by the City authorizing the excavation, installation, construction or erection of any Swimming Pool and Swimming Pool Fence within the City of Guelph does not permit or condone the violation of any other By-law in effect in the City of Guelph.

EXEMPTION

10. A permit shall not be required under this By-law for any Swimming Pool for which a permit has been issued by the City prior to the passing of this By-law provided that the Swimming Pool 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.

OFFENCE

- 11. Every Person who contravenes any provision of this By-law is guilty of an offence.

PENALTY

- 12. 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 successor thereof.

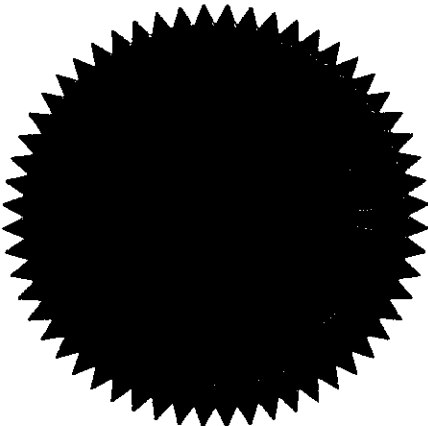
PRIOR BY-LAWS REPEALED

- 13. By-law Numbers (1980)-10314, (1989)-13247 and (1992)-14270 are hereby repealed.

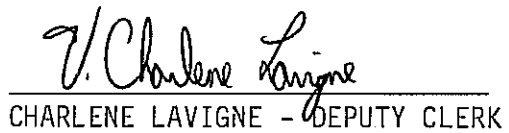
MUNICIPAL CODE AMENDED

- 14. Chapter 268 of The Corporation of the City of Guelph's Municipal Code is hereby deleted, and this By-law substituted therefor, being Municipal Code Amendment # 147.

PASSED THIS 2nd DAY OF August, 1994 .




JOHN COUNSELL - MAYOR


CHARLENE LAVIGNE - DEPUTY CLERK