

TOWNSHIP OF ALFRED AND PLANTAGENET

BY-LAW NUMBER 2005-69

SWIMMING POOL ENCLOSURE BY-LAW

BEING A BY-LAW of the Corporation of the Township of Alfred and Plantagenet respecting the enclosure for privately-owned outdoor swimming pools.

WHEREAS Section 11 of the *Municipal Act, 2001*, provides that the council of a municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS, the Corporation of the Township of Alfred and Plantagenet deems it desirable to require owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for describing the height and description thereof, and the manner for erecting and maintaining such fences and gates, for prohibiting persons from placing water in privately-owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected;

NOW THEREFORE the Council of the Township of Alfred and Plantagenet enacts as follows:

SHORT TITLE

1. This by-law may be cited as the "Swimming Pool Enclosure By-Law".

DEFINITIONS

2. In this by-law:
 - (a) "**Township**" shall mean The Township of Alfred and Plantagenet;
 - (b) "**Permit**" shall mean permission or authorization given in writing by the Chief Building Official to erect enclosures around swimming pools as regulated in this by-law;
 - (c) "**Swimming Pool**" shall mean any privately-owned outdoor below grade or above ground pool of water for bathing, wading or reflecting and which has a water depth potential exceeding 610 millimetres (24 inches) at any point;
 - (d) "**Owner**" shall mean the registered owner of the land and includes a lessee, mortgagee in possession, and the person in charge of the property;
 - (e) "**Chief Building Official**" shall mean the Chief Building Official appointed by the Council of the Corporation of the Township of Alfred and Plantagenet, or his or her authorized subordinates or assistants;
 - (f) "**Corporation**" shall mean the Corporation of the Township of Alfred and Plantagenet.
 - (g) "**Municipal Law Enforcement Officer**" shall mean a Municipal Law Enforcement Officer appointed by the Council of the Corporation of the Township of Alfred and Plantagenet;

GENERAL REQUIREMENTS

3. Every owner of a privately-owned outdoor swimming pool shall ensure that an enclosure around such a pool is constructed and maintained according to the provisions of this by-law.
4. No person shall place water in a swimming pool in the Township unless the prescribed fences and gates or, for a maximum period of thirty days, a temporary fence as approved by the Chief Building Official have been erected in accordance with provisions of this by-law.
5. No person shall allow water to remain in a swimming pool in the Township unless the prescribed fences and gates or temporary fence has been erected in accordance with the provisions of this by-law.

PERMITS

6. No person shall construct or place a swimming pool on his property in the Township without first obtaining a swimming pool enclosure permit.

APPLICATION FOR PERMIT

7. To obtain a permit the owner shall file an application in writing by completing a prescribed form available in the office of the Chief Building Official.
8. Except as otherwise permitted by the Chief Building Official, every applicant shall:
 - (a) identify and describe in detail the work to be covered by the permit for which an application is made,
 - (b) describe the land on which the pool is to be located by a description that will readily identify and locate the building lot,
 - (c) be accompanied by two (2) complete sets of plans showing details of the enclosure as well as its relationship to lot lines, buildings and fences,
 - (d) be accompanied by the fee as prescribed in Section 11 hereof, and
 - (e) state the names, addresses and telephone numbers of the owner and the contractor performing the work.
9. An application for a permit may be deemed to have been abandoned and cancelled six (6) months after the date of filing, unless such application is being seriously proceeded with.
10. Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed work will comply with this by-law or any other applicable law or regulation.
11. The fee for a swimming pool enclosure permit shall be fifty dollars (\$50.00).

LAWFULLY EXISTING POOLS

12. Owners of swimming pools that were lawfully installed under municipal regulations prior to the date of the passing of this By-law will be exempt from paying the permit fee and will have a period of 90 days from the date of the passing of this By-law to comply with Sections 3, 4 and 5 of this By-law.

CONDITIONS OF PERMIT ISSUANCE

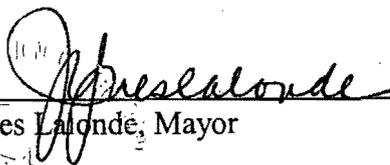
13. (1) Every swimming pool shall have an adequate enclosure erected around it in accordance with the provisions of subsection (2) to subsection (5) hereof inclusive.
 - (2) Every enclosure for a swimming pool shall be;
 - (a) at least 1.2 metres in height, and
 - (b) of a close-boarded, chain link or other approved design, to reasonably deter children from climbing it to gain access to the fenced-in area.
 - (3) Gates in the enclosure shall;
 - (a) provide protection equivalent to the enclosure,
 - (b) be equipped with a self-closing and latching device at the upper inside of the gate, and
 - (c) be closed except when the enclosed area is actually being used and supervised.
 - (4) Barbed wire or fencing energized by electrical current shall not be used as an enclosure for the swimming pool.
 - (5) Where a wall of a building is used as part of an enclosure, all doors located in the wall of the building shall be equipped with self-latching and locking devices.
 - (6) In the case of an above ground pool over 1.2 metres, the pool walls may be considered as enclosure, but the access and any decks must be adequately enclosed in accordance with subsections (2) to (5) hereof inclusive
4. There shall be a minimum distance of four (4) feet between the enclosure and any part of a below grade swimming pool unless approved otherwise by the Chief Building Official.
5. When an enclosure is not erected or maintained, in accordance with the provisions of this by-law, a notice shall be sent by registered mail or by hand to the owner of the land on which the swimming pool is located, at his last known address requiring him to make the enclosure conform to the requirements of this by-law and the notice shall specify a minimum time of 30 days for compliance.
6. (1) Where a notice has been sent pursuant to Section 14, and the requirements of the notice, have not been complied with, the Chief Building Official may cause the work to be done, or the water to be removed from the swimming pool and the cost of the work or the removal of the water shall be at the expense of the owner.
 - (2) When the Chief Building Official causes the work to be done pursuant to subsection (1), the Corporation shall have a lien for any amount expended by or on behalf of the Corporation and for administrative fee of ten (10%) percent of any amount expended by or on behalf of the Corporation, and the certificate of the clerk of the Corporation as to the total amount expended shall be admissible in evidence as prima facie proof of the total amount expended and such total amount together with the administrative fee shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in like manner and with the same remedies as real property taxes.

- (3) Before the certificate of the clerk of the Corporation is issued under subsection (2), an interim certificate shall be delivered to the owner of the property that is subject to the lien, as well as to all prior mortgagees or other encumbrances and the affected owner, mortgagees or other encumbrancers shall have (2) two weeks from the date of receipt of the interim certificate to appeal the amount shown thereon to the council of the Corporation.

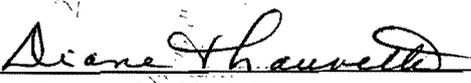
PENALTIES

17. The provisions of this By-law shall be enforced by the Municipal Law Enforcement Officer.
18. Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction thereof shall forfeit, and pay a penalty for each such offence and every such penalty shall be recoverable under the Provincial Offences Act, R.S.O. 1990, chapter P.33 and amendments thereto.
19. When a person has been convicted of an offence under this by-law any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.
20. The requirements of this by-law are severable. If any requirements of this by-law are held invalid, the application of such requirements to other circumstances and the remainder of this by-law shall not be affected.
21. By-Law 75-97 is hereby repealed.
22. This by-law shall come into force and take effect on the date of its adoption.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 19th DAY OF DECEMBER, 2005.



Jean-Yves Lalonde, Mayor



Diane Thauvette, Clerk-Treasurer