

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

BY-LAW NO. 2019-21

Being a By-law to require the erection and maintenance
of fences around private outdoor swimming pools

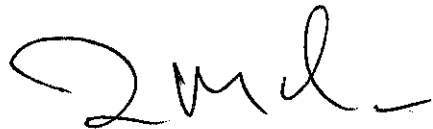
WHEREAS Section 10 (2), paragraph 6, of the Municipal Act, 2001, S.O. 2001, c. 25 authorizes a municipality to pass by-laws respecting the health, safety and wellbeing of persons; and

WHEREAS Section 10 (2), paragraph 10, of the Municipal Act 2001, authorizes a municipality to pass by-laws respecting structures, including fences and signs;

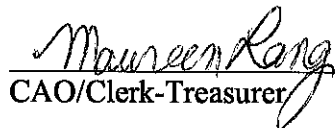
1. That Schedule "A" attached hereto form this by-law
2. That By-Law 2016-29 be rescinded.
3. That the By-law come into effect upon adoption.

READ a FIRST and SECOND time on August 6, 2019.

READ a THIRD and FINAL time and considered passed on this the 6th day of August, 2019.



Mayor



CAO/Clerk-Treasurer

Schedule 'A' By-Law 2019-21

1. For the Purpose of this By-Law:

DEFINITIONS:

- a) "Building Inspector" shall mean the Building Inspector for the Corporation of the Municipality of Powassan.
- b) "Municipality" shall mean the Corporation of the Municipality of Powassan.
- c) "Person" shall include a firm partnership, company, corporation, contractor or owner.
- d) "Enclosure" means a fence, wall or other structure, including doors and gates, surrounding privately owned outdoor swimming pool to restrict access thereto.
- e) "Privately-Owned Outdoor Swimming Pool" means any privately owned body of water located outdoors contained in part or in whole by artificial means in which the depth of the water in any point can exceed eighteen inches and used or capable of being used for swimming. The definition does not include ponds.
- f) "Service Entrance" means that entrance into a building which is normally used by persons entering such building for the purpose of delivering goods or rendering maintenance service as opposed to the main or principal entrance.

2. This By-Law shall be enforced by the Building Inspector.

ENCLOSURES:

- a) The owner of a privately owned outdoor swimming pool shall erect and maintain an adequate enclosure surrounding the entire pool area and and sufficient to make such body of water not readily accessible to small children.
- b) No person shall place water in a privately owned outdoor swimming pool or allow water to remain therein unless the fences and gates prescribed by the By-Law have been erected.
- c) Except as further provided in Clause 3 (f) (v), such enclosure, including gates therein, shall extend from the ground to a height, measured on the outside of the enclosure, of not less than four (4) feet.
- d) When a wall of a building forms part of such enclosure, no main or service entrance to the building shall be located within the swimming pool area enclosure, except that this requirement shall not apply when the main entrance and all exterior service meters and intakes are located outside the enclosure and a sign is erected and maintained directing all service personnel to use the main entrance.

- e) Except as provided in (f) (vi) (2), such enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
- f) A fence or its equivalent forming part of such enclosure,
 - (i) shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in clause (f) (vi)
 - (ii) If of Chain Link Construction, Shall:
 1. Be of greater than 1 1/2-inch diamond mesh
 2. Be constructed of galvanized steel wire not less than No. 12 gauge, or of minimum 14-gauge steel wire covered with a vinyl or other approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire.
 3. Be supported by at least 1 1/2-inch diameter galvanized steel posts each covered by a minimum of two inches of concrete from grade to a minimum of two feet below grade, such posts to be spaced not more than ten feet apart. Top and bottom horizontal rails shall be provided of 1 1/4-inch minimum diameter galvanized steel except that a 1/2 inch minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating.
 - (iii) If of Wood Construction, Shall
 1. Have the vertical boarding attached to supporting members all of which are arranged in such manner so as not to facilitate climbing from the outside. Such vertical boards shall be not less than 1 x 4-inch nominal dimensions spaced not more than 1 1/2 inches apart.
 2. Be supported by a minimum of four-inch square or four-inch diameter posts, nominal dimensions, spaced not more than eight feet on centers securely embedded to a minimum of two feet below grade. That portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood two inch by four-inch minimum nominal dimensions.
 - (iv) Shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence.

(v) Shall be located no less than four feet from the swimming pool unless -

1. A continuous hand hold is available along the edges of the pool for the purpose of providing, in an emergency, support for a person in the pool.
2. AND such fence shall not, regardless of height, be located closer than four feet to any condition that would contribute to the lessening of these minimum safety requirements by facilitating the climbing of the swimming pool fence.

(vi) May be of construction other than that specified provided an equivalent degree of safety is maintained and shall:

1. Be constructed so that the rigidity is equal to that specified for those fences described in Clause (f)(ii) or (f)(iii).
2. Be permitted to have exposed structural or other members or parts thereof that may facilitate climbing the outside of the enclosure provided the minimum clear vertical distance between any such members, or parts thereof, is four feet and, regardless of the location of such members, where this minimum four-foot vertical dimension is maintained the least dimension of any opening through such fence may be increased to not more than that required to prevent the passage of a spherical object having a diameter of four inches.
3. The provisions of the By-Law requiring the erection of a fence shall not apply if the outside walls of the swimming pool are elevated at least four feet above the grade of the ground abutting such walls provided that the exterior surface of the walls are so constructed so as not to facilitate climbing and each entrance to the pool is protected with a gate complying with the requirements of Section 2(g);
4. A fence erected on the property lines which complies with the provisions of this By-Law shall be deemed a sufficient fence if it completely fences in the yard in which the swimming pool is located.

g) Gates forming part of such enclosure, shall:

- (i) Be of construction and height equivalent to that required for the fence;
- (ii) Be supported on substantial hinges, and;
- (iii) Each be self-closing and equipped with a locking device and with a self-latching device placed at the top and on the inside of the gate.

- h) Subject to the provisions of Paragraph (d), doors providing access from a Building directly to an enclosed swimming pool area, other than doors located in a dwelling unit or a rooming unit, shall each be self-closing and equipped with a locking device and with a self-latching device located not less than four feet above the bottom of the door.
- i) The owner of every privately owned outdoor swimming pool shall ensure that every gate and door required by Paragraphs (g) and (h) to be equipped with a locking device shall be kept locked at all times if there is more than eighteen inches of water in the pool and a responsible person is not present and supervising the pool.
- j) No person shall erect a fence or gate for a swimming pool until plans for such fences and gates have been submitted to the building inspector and a permit certifying approval of such plans has been issued.
- k) The provisions of this By-Law shall apply to all private swimming pools regardless of the date of construction of such swimming pool with any By-Law.
- l) Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.