



Office Consolidation

Pool Enclosure By-law 202-2011

To require the construction of fences and gates around privately owned pools sufficient to promote a secure environment and provide a minimum level of safety for the protection of the public and to repeal By-law 95-92, as amended

WHEREAS section 11 of the *Municipal Act*, 2001, S.O. 2001, c. 25, 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;

NOW THEREFORE The Council of the Corporation of the City of Brampton ENACTS as follows:

1.0 ADMINISTRATION

- 1.1 This by-law shall be administered and enforced by the Commissioner of the Planning, Design and Development Department and by the Commissioner of the Corporate Services Department or their delegates; and
- 1.2. In this by-law, unless the context otherwise requires, words importing the singular number shall include the plural and words importing the masculine gender shall include the feminine; and
- 1.3 The schedules in this by-law form part of the by-law.

2.0 DEFINITIONS

In this by-law:

"Commissioner" shall mean the Commissioner of Planning, Design and Development for the City of Brampton and/or the Commissioner of Corporate Services or such person as they may designate to carry out their duties under this by-law;

“Enclosure” shall mean a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor pool to restrict access thereto; and pool enclosure and swimming pool enclosure shall have the same meaning;

“Owner” shall include a person in possession of the property on which the swimming pool is located;

“Privately owned outdoor pool” shall mean any body of water located outdoors on privately owned property, contained in whole by artificial means, in which the depth of the water at any point can exceed 0.6 metres (24 inches), and includes spas, hot tubs, landscaped ponds, wading pools and swimming pools;

“Self-closing device” shall mean a mechanical device or spring, which returns a Pool Enclosure gate to its closed position within 30 seconds after it has been opened;

“Self-latching device” shall mean a mechanical device or latch which is engaged each time the gate is secured to its closed position, which will not allow the gate to be reopened by pushing or pulling, and which will ensure the Pool Enclosure gate remains closed until unlatched by either lifting or turning the device itself directly or by a key;

“Service entrance” shall mean that entrance into a building which would normally be used by persons entering such building for the purpose of delivering goods or rendering maintenance service.

3.0 REGULATIONS AND PROHIBITIONS

- 3.1 No person shall construct or install a privately owned outdoor pool, cause a privately owned outdoor pool to be constructed or installed, commence the construction or installation of a privately owned outdoor pool without first obtaining a pool enclosure permit from the Chief Building Official.
- 3.2 No person shall excavate for or erect a privately owned pool without first obtaining a Fill and/or a Road Occupancy and Access Permit from Works and Transportation
- 3.3 No person shall place water in a privately owned outdoor pool or allow water to remain therein, unless the pool enclosure prescribed by this by-law has been inspected and approved.
- 3.4 Every owner of a privately owned pool shall maintain the pool enclosure in accordance with the standards and the provisions of this by-law.
- 3.5 No person shall alter or replace a pool enclosure without having first obtained a permit from the Chief Building Official.
- 3.6 No owner of a privately owned pool shall fail to ensure that:
 - (a) all gates forming part of the pool enclosure meet the standards of this by-law;
 - (b) all entranceways to a pool enclosure through a wall of a main building meet the standards of this by-law;
 - (c) all gates forming part of a pool enclosure are locked when the area is not in active use;

- (d) the lockable lid of any hot tub is closed and locked when the pool area is not in active use unless the hot tub is within a locked pool enclosure meeting the requirements of this by-law;
- 3.7 No person shall place, pile, attach or lean any object or material against or near a pool enclosure so as to facilitate climbing of the pool enclosure, diminish the structural integrity of a pool enclosure or render the pool enclosure in non-conformity with the provisions of this by-law.
- 3.8 No person shall erect a fence adjacent to an existing pool enclosure that does not comply with the requirements of this by-law.

4.0 APPLICATIONS AND PERMITS

4.1 Application

Every application for a pool enclosure permit shall include:

- (a) A completed application in the form specified by the Chief Building Official;
- (b) 2 copies of a legal survey with the proposed pool plotted, showing the dimensions of the pool and the distance to lot lines, existing buildings and any private sewage systems;
- (c) 2 copies of a plan showing the location of the pool, all proposed pool equipment (such as filters, heater, slides) and proposed landscape features in relation to property lines, buildings (including decks and sheds), and any easements;
- (d) Complete details of the proposed pool enclosure, including the location and type of proposed fence and gates;
- (e) A copy of the Fill Permit and Road Occupancy Permit, if required, issued by the City of Brampton Works and Transportation Department;
- (f) If the proposed pool is within an unassumed plan of subdivision, the written approval of the owner or authorized agent of the owner of the plan of subdivision;
- (g) the permit fee(s) specified in Schedule 'A',

4.2 Permit

The Chief Building Official shall issue a permit for a pool enclosure where the application submitted complies with the requirements of this by-law and all applicable regulations and by-laws or approvals. Without limiting the generality of the foregoing, the Chief Building Official shall not issue a permit for the pool enclosure unless the proposed location of the swimming pool and the pool enclosure complies with the Zoning By-law and any other applicable regulations, by-laws or approvals.

4.3 Abandoned Application

Where an application for a pool enclosure permit remains inactive for a period of six months from the date of application it shall be deemed to have been abandoned.

4.4 Revocation of Permit

The Chief Building Official may revoke a permit:

- (a) where it was issued on mistaken or false information;
- (b) where, after six months after its issuance, the construction or erection in respect of which it was issued has not, in the opinion of the Chief Building Official been seriously commenced; or
- (c) where the construction or the erection of the pool is, in the opinion of the Chief Building Official, substantially suspended or discontinued for a period of more than one year.

Prior to revoking a permit in accordance with this by-law, the Chief Building Official may give written notice of intention to revoke to the permit holder at their last known address and if, on the expiration of thirty (30) days from the date of such notice, the grounds for revocation continue to exist, the permit shall be revoked without further notice.

4.5 Permit Expiry and Renewal

- (a) A permit issued pursuant to this by-law shall be valid for a period of six months from the date of issue and shall remain valid so long as the work covered by the permit is commenced before the expiry of the six month period;
- (b) A permit may be renewed once for a further six month period upon submission of a written request for renewal to the Chief Building Official;
- (c) where no written request for renewal is submitted to the Chief Building Official before the expiry of the six month period the permit shall be deemed to have been abandoned in accordance with Section 4(3) of this by-law.

4.6 Refund of Fees

A refund of 50% of the fee paid at the time of application is payable upon receipt of a written request addressed to the Chief Building Official prior to the issuance of a permit and prior to the commencement of the construction of the swimming pool. No refund is payable subsequent to the issuance of a pool enclosure permit.

5.0 CONSTRUCTION STANDARDS FOR POOL ENCLOSURE

- 5.1 Every enclosure shall be erected and maintained to surround the entire pool area and shall be sufficient to make such body of water not readily accessible.
- 5.2 The enclosure, including gates therein, shall extend from the ground to a height, measured on the outside of the enclosure, of not less than 1.2 metres (4 feet) at all points along the fence enclosure, above grade level, to a maximum height of 2 metres (6 feet 6 inches), or as otherwise prescribed by the city's comprehensive Zoning By-law as it reads on the date of the issuance of the permit for the pool enclosure.
- 5.3 When a wall of a building forms part of such enclosure, no main or service entrance to the building shall be located within the enclosed area, 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 services personnel to use the main entrance.

- 5.4 The enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
- 5.5 A fence or its equivalent forming part of such enclosure shall be of vertically boarded wood construction, chain link construction, or of other materials and construction as provided for.
- 5.6 If an enclosure is of chain link construction the enclosure shall:
 - (a) be constructed of not greater than 38 mm (1.5 inch) diamond mesh; and
 - (b) be constructed of not less than No. 12 gauge galvanized steel wire or of minimum No. 14 gauge steel wire covered with vinyl or alternate approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire; and
 - (c) be supported by at least 3.8 centimetres (1 ½ inch) diameter galvanized steel posts each embedded in concrete to a minimum depth of 1.2 metres (4 feet) below grade, such posts to be spaced no more than three (3) metres (10 feet) apart. Top and bottom horizontal rails shall be provided of 3.8 centimetres (1 ½ inch) minimum diameter galvanized steel, except that a minimum No. 9 gauge galvanized steel wire may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating.
- 5.7 If an enclosure is of wood construction the enclosure shall:
 - (a) have vertical boarding attached to supporting members all of which are arranged in such a manner so as not to facilitate climbing from the outside. Such vertical boards shall be not less than 2.5 centimetres (1 inch) by 10 centimetres (4 inches) nominal dimensions spaced not more than 5 centimetres (2 inches) apart; and
 - (b) be supported by minimum of ten (10) centimetres (4 inch) square or 10 centimetres (4 inch) diameter cedar posts, nominal dimensions, spaced not more than 2.4 metres (8 feet) on centres embedded in concrete to a minimum of 1.2 metres (4 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, five (5) centimetres (2 inch) by ten (10) centimetres (4 inch) minimum nominal dimensions.
- 5.8 An enclosure shall not include barbed wire, devices for projecting an electric current through the fence, or devices having similar dangerous characteristics.
- 5.9 An enclosure shall be located not less than 1.2 metres (4 feet) from the swimming pool unless:
 - (a) the required height of said enclosure as prescribed in paragraph 5.2 of this by-law is increased to 1.8 metres (6 feet); and
 - (b) such enclosure shall not, regardless of height be located closer than 1.2 metres (4 feet) to any condition on the property that would contribute to the lessening of these minimum safety requirements by facilitating the climbing of the swimming pool enclosure.
- 5.10 An enclosure may be of construction other than that specified providing that an equivalent degree of safety is maintained and shall be constructed so that the rigidity is equal to that specified for those fences described in paragraphs 5.6 and 5.7 to prevent a spherical object having a diameter of

ten (10) centimetres (4 inches) from passing through or under such enclosure.

- 5.11 Gates forming part of such enclosure shall:
- (a) be of construction and height equivalent to that required for the enclosure; and
 - (b) be supported on substantial hinges; and
 - (c) be self-closing and equipped with a self-latching and locking device placed at the top and on the inside of the gate so that the device latches when the gate is in the closed position.
- 5.12 Subject to the provisions of paragraph 5.3, 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 self-latching device located not less than 1.2 metres (4 feet) above the bottom of the door.
- 5.13 The owner of every privately owned outdoor pool shall ensure that every gate and door required by paragraphs 5.11 and 5.12 be equipped with a locking device.

6.0 SPECIAL PROVISIONS AND PARTIAL EXEMPTIONS

6.1 Hot Tubs

Notwithstanding Section 5.1 of this by-law, no permit or pool enclosure is required for a hot tub which is:

- (a) equipped with a substantial cover, capable of holding 90.72 kg (200 lbs), which is fitted to the structure and locked to prevent access when the structure is not in use; or
- (b) equipped with a guard meeting the requirements of Section 6.2(i) of this by-law.

6.2 Above Ground Pools and Hot Tubs with Guards

- (a) The pool enclosure for an above ground pool or hot tub need not comply with Section 5.0 of this by-law provided:
 - (i) the combined height of the exterior sides of the swimming pool structure and any guard attached thereto is a minimum of 1.5 m. (5 feet) and a maximum of 2 m (6 feet 6 inches) in height above the effective ground level;
 - (ii) the exterior sides of the pool structure and any outside face of any guard are constructed in a manner that will not facilitate climbing; and
 - (iii) the outside face of the pool structure is at least 1.2 m (4 feet) from any lot line, or such larger distance as may be required by the Zoning By-law; and
 - (iv) access to the entrance ladder shall be enclosed by a swimming pool enclosure and gate constructed in accordance with Section 5.1 of this by-law.

7.0 ENFORCEMENT

- 7.1 The provisions of this by-law may be enforced by an officer appointed by City Council for the administration and enforcement of this by-law.
- 7.2 The Commissioner or officer may, at any reasonable time, enter and inspect any land to determine whether this by-law, an order under this by-law or a condition to a Permit issued under this by-law is being complied with.

8.0 PENALTY

- 8.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.

9.0 REPEAL

- 9.1 By-law 95-92, as amended, is hereby repealed.

10.0 SHORT TITLE

- 10.1 This by-law may be referred to as the Pool Enclosure By-law.

READ a first, second and third time and PASSED in OPEN COUNCIL, this 22th day of June 2011.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:
Susan Fennell – Mayor
Peter Fay – City Clerk

SCHEDULE 1 TO BY-LAW 202-2011

FEE SCHEDULE	
Pool Enclosure Permit	\$175.00