

# **THE CORPORATION OF THE TOWNSHIP OF NORTH DUNDAS**

## **BY-LAW No. 25 -2004**

### **BEING A BY-LAW TO ESTABLISH CERTAIN PROVISIONS WITH RESPECT TO THE INSTALLATION OF SWIMMING POOLS AND ENCLOSURES**

**WHEREAS** Subsection 130 of the Municipal Act R.S.O. 2001, Chapter 25, as amended, enables the Council to pass by-laws relating to the safety and well-being of the inhabitants of the municipality.

**NOW THEREFORE** the Council of the Corporation of the Township of North Dundas hereby enacts as follows:

#### **TITLE**

1. This by-law may be cited as the “Pool By-law” or the “Swimming Pool Enclosure By-law”.

#### **DEFINITIONS**

2. In this by-law:
  - (a) “Chief Building Official” means the agent or employee appointed by the Corporation of the Township of North Dundas to enforce the provisions of the Building Code Act and this by-law, and includes employees or authorized assistants acting under his direction.
  - (b) “Corporation” means the Corporation of the Township of North Dundas.
  - (c) “Enclosure” means any combination of fence, wall, or other structure, including gates, surrounding a pool to restrict access.
  - (d) “Farm Pond” means any natural or artificial body of water used for the purposes of providing water to livestock or for irrigation of crops.
  - (e) “Grade” means the elevation of the finished surfaces immediately surrounding the outside of the enclosure.
  - (f) “Guard” means a guard constructed in accordance with the Ontario Building Code.
  - (g) “Permit” means permission or authorization in writing from the Chief Building Official to erect enclosures around swimming pools as regulated by this by-law.
  - (h) “Pool Fence” means a vertical barrier constructed of chain-link, wood, fibreglass, stone, metal or other material to enclose an area. A pool fence may include a gate.
  - (i) “Gate” means part of a fence that is removable, swinging, sliding or otherwise used as a barrier to block or close an access. A gate may include a door.
  - (j) “Self-Latching Device” means an automatic locking device attached to a fence, gate or door which prevents access from the outside.
  - (k) “Self-Closing” means a device or combination of devices, spring or hinges capable of returning the enclosure to a closed and latched position after each use.
  - (l) “Storm Water Management System” means any man made or natural facility

designed for the treatment, retention, infiltration or control of storm water, including drainage works and retention ponds.

- (m) "Swimming Pool" means an artificially created body of water intended for swimming, bathing, wading or reflecting and is capable of retaining water depth greater than 600 mm (24"), but shall not include a storm water management system, facilities and pond used for water hazards or irrigation at a golf course, facilities for the purposes of providing water to livestock or for irrigation of crops which are associated and located on land devoted to the practice of farming.

### **GENERAL REQUIREMENTS**

3. Every owner of an 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 pool in the Township of North Dundas unless an enclosure has been erected in accordance with the provisions of this by-law.
5. No person shall allow water to remain in a pool in the Township of North Dundas unless an enclosure has been erected in accordance with the provisions of this by-law.

### **PERMIT**

6. No person shall construct or install or cause to be constructed or installed a swimming pool without having first obtained a pool permit from the Township of North Dundas.
7. To obtain a permit the owner shall file an application in writing by completing a prescribed form available at the office of the Chief Building Official.
8. Despite Section 6, a permit is not required in the case of a pool which has been dismantled and is being reconstructed in the same position and the same manner in which it was previously located provided that:
  - (a) a permit was obtained for the original installation,
  - (b) the reinstallation meets the requirements of all currently applicable by-laws, and
  - (c) the pool enclosure has remained in place and has not been modified since the original installation.
9. Except as otherwise permitted by the Chief Building Official, every application 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 established in Schedule "A" (Classes of Permits and Permit Fees) of By-law 99-12, as amended, and
  - (e) state the names, addresses and telephone numbers of the owner and contractor performing the work.
10. 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 as being seriously proceeded with.
11. 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.
12. The fee for a pool enclosure permit shall be fifty dollars (\$50.00)

## **MANDATORY POOL ENCLOSURES**

13. Any exterior accesses in a pool enclosure leading to a terrace, patio, steps or deck adjoining a swimming pool must be closed by a door or a gate. This door or gate must be self-closing, self-latching, and be kept locked when the pool is unoccupied or without supervision.
14. When an enclosure is not erected or maintained, in accordance with the provisions of this by-law, the Chief Building Official shall send a notice by registered mail or by personal delivery to the owner of the land on which the pool is located, at the last known address requiring the owner to make the enclosure conform to the requirements of this by-law and the notice shall specify the time allowed for compliance.
15.
  - (1) Where a notice has been sent by the Chief Building Official pursuant to Section 14, and the requirements of the notice have not been complied with, the Corporation may cause an enclosure to be erected or otherwise made safe, and the cost of the work shall be at the expense of the owner.
  - (2) When the Corporation causes the work to be done pursuant to subsection (1), the Corporation may recover the expense incurred in like manner as municipal taxes.

## **REQUIREMENTS RELATING TO A POOL FENCE, GATES AND DOORS**

16. Pool fences forming part of a pool enclosure must be constructed and maintained in accordance with the following requirements:
  - (a) The pool fence must be a minimum height of 1.5 metre (5 feet) proportionate to the adjacent ground level, without however exceeding the maximum height established in the applicable zoning by-law.
  - (b) The pool fence that forms part of this enclosure:
    - (i) must be constructed solidly, capable of supporting a load similar to that of requirements for guards in the Ontario Building Code,
    - (ii) pool fences and gates must be constructed in such a manner as to reasonably deter children from climbing,
    - (iii) must not have rails or any other horizontal or diagonal support or exterior fixtures that might facilitate climbing,
    - (iv) must not have openings that could let in a spherical object with a diameter of 100 mm (4 inches) or more, except that chain link fences shall be limited to 38 mm (1 ½ inches) openings,
    - (v) must not contain a mechanism that permits electric current to run through the fence,
    - (vi) must not be constructed with snow fence, barb wire, sharp objects or any other dangerous characteristics,
    - (vii) the distance between ground level and the pool fence must not exceed 100 mm (4 inches);
    - (viii) the enclosure must be situated at a distance of at least 1.2 metre (4 feet) from the pool edge for at least 50% of the pool's perimeter.
  - (c) Gates forming part of a pool fence shall be:
    - (i) of similar construction as for the pool fence,
    - (ii) of the same height or higher than the pool fence,
    - (iii) supported with strong hinges,
    - (iv) equipped with self-closing and self-latching devices. The self-latching device must be installed at more than 1.2 metre (4 feet) high proportionate to the ground level or adjacent floor or step, and
    - (v) be lockable.

- (d) Gates forming part of a guard on a deck, steps or raised patio must:
  - (i) be of rigid construction, capable of supporting loads as described for guards in the Ontario Building Code,
  - (ii) be a minimum height of 10.70 mm (42 inches) equal to the adjacent floor or to the top of the last step adjacent to the gate,
  - (iii) be constructed with two vertical extensions of similar construction at a minimum width of 0.3 metre (1 foot) on each side,
  - (iv) be supported with hinges,
  - (v) be equipped with a self-closing device and self-latching device. Such device must be installed at the top and inside of the gate,
  - (vi) be constructed without horizontal or diagonal members which could facilitate climbing, and
  - (v) be lockable.

### **POOL EQUIPMENT**

- 17. A swimming pool's pumping, filtration or heating equipment must be situated:
  - (a) at least 1.5 metres (5 feet) from a interior side yard lot line or from a back yard lot line as defined in the applicable zoning by-law;
  - (b) at least 3.5 metres (11 feet, 6 inches) from an exterior side lot line as defined in the applicable zoning by-law;
  - (c) outside the front yard as defined in the applicable zoning by-law;
  - (d) at least 1.2 metres (4 feet) from the pool, unless it is installed under a deck adjacent to the pool or located within the pool enclosure; or
  - (e) in such a manner as to not facilitate climbing to access the pool.

### **ABOVE-GROUND POOL**

- 18.
  - (1) Above-ground pool vertical walls can be considered as a pool enclosure provided that such wall is at least 1.2 metres (4 feet) in height or be equipped with a handrail and guards in compliance with this by-law. Such required height shall be measured from the highest finished grade within a horizontal distance of 4' to the pool.
  - (2) An above-ground pool totally or partially surrounded by a walkway adjacent to the pool's ledge, must be surrounded by a guard of a minimum height of 1.5 metres (5 feet) proportionate to the ground level. Also, this walkway must not be built in a manner that could facilitate climbing.
  - (3) No guards may be added to the top of a pool wall that does not meet the requirements for a 1.2 metre (4 foot) pool fence as described in Section 16.
  - (4) An enclosure for a structure known as a hot tub, whirlpool or spa may include a secure cover of rigid material locked in place over the opening at all times when the structure is not occupied, and no person shall leave a hot tub, whirlpool, or spa without first locking the cover in place to prevent access when the structure is not occupied.

### **GROUND ELEVATION**

- 19.
  - (1) The installation of a swimming pool or pool fence shall not alter in any way the existing stormwater drainage patterns of the premises.

- (2) The installation shall include facilities to effectively conduct backwash water to a storm sewer, where available, or a drainage ditch, in such a manner as to prevent damage to adjacent properties.

#### **CONTRAVENTION**

20. Every person who contravenes any 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, R.S.O. 1990, Chapter P.33*, as amended.

#### **COURT JURISDICTION**

21. When a person has been convicted of an offence under this by-law, the Ontario Court of Justice, or 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 by the person convicted.

#### **VALIDITY**

22. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

#### **BY-LAW REPEAL**

23. By-law 90-40 and its amendments of the former Township of Mountain is hereby repealed.

#### **TRANSITION**

24.
  - (1) Any pool fence or pool enclosure that was lawfully erected before the day this by-law came into effect is deemed to comply with this by-law and may be maintained as erected.
  - (2) Any pool erected without a pool fence must comply with the provisions of this by-law.
  - (3) Any owner having a pool fence or pool enclosure which was not lawfully erected or having an above-ground pool erected without a pool fence, must comply before the 2005 pool season.
  - (4) When a pool fence or pool enclosure is replaced, it must comply with this by-law.

#### **EFFECTIVE DATE**

25. This by-law shall come into effect on the 1<sup>st</sup> day of June, 2004.

**ENACTED AND PASSED** this 31<sup>st</sup> day of May, 2004.

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ALVIN RUNNALLS, Mayor

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JO-ANNE MCCASLIN, Clerk