

THE CORPORATION OF THE TOWNSHIP OF ADJALA-TOSORONTIO

BY-LAW 05-27

A BY-LAW TO REQUIRE FENCES AROUND PRIVATE OUTDOOR SWIMMING POOLS

(Swimming Pool Fencing By-law)

WHEREAS the Municipal Act, 2001, S.O. 2001, Chapter 25, Section 8, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act, that Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

AND WHEREAS Section 11, of the *Municipal Act*, provides that a lower-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

AND WHEREAS the Council of the Corporation of the Township Adjala-Tosorontio deems it appropriate to pass such a by-law.

NOW THEREFORE the Council of the Corporation of the Township of Adjala-Tosorontio enacts as follows:

1. **DEFINITIONS**

- 1.1 “DESIGNATED OFFICIAL” shall mean the Designated Official appointed by Council to administer this By-law.
- 1.2 “ENCLOSURE” shall mean a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.
- 1.3 “SWIMMING POOL” shall mean an outdoor body of water contained in part or in whole by artificial means, which hold water in excess of eighteen (18) inches in depth which is located on private property and which is not a Public Pool as defined under the Ontario Building Code.

2. **ENCLOSURES**

- 2.1 No person shall construct a Swimming Pool or erect a fence around same without first acquiring the necessary permit or permits from the Municipality. The application for a permit shall be on the prescribed form of the Municipality and shall include a plot plan satisfactory to the Designated Official.
- 2.2 No person shall have a Swimming Pool in the Municipality unless the area is completely enclosed by fencing in compliance with the following requirements:

In Ground Pool

- a) Such fencing, including gates therein shall extend from the ground to the height of not less than 1.22 metres (4 feet) and shall fulfill the intent of prohibiting unauthorized trespass into the Swimming Pool area.
- b) Have no rails or other horizontal or diagonal bracing or attachments on the outside face that may facilitate climbing; between 10 millimetres (4 inches) and 1.22 metres (4 feet) from grade.
- c) Vertical Board – A fence of vertical board construction shall:

- i) Have vertical boarding 25 millimetres (1 inch) thick nominal attached to a top and bottom rail in such a manner as to not facilitate climbing from the outside. Such vertical boards must not be less than 23 millimetres x 100 millimetres x 100 millimetres (1 inch x 4 inches) nominal and must be spaced not more than 100 millimetres (4 inches) apart.
 - ii) Be supported by posts at least 100 millimetres x 100 millimetres (4 inches x 4 inches) nominal, spaced not more than 2.4 metres (8 feet) apart. Such posts shall extend at least 1.2 metres (4 feet) into the ground and be securely embedded therein. The portion below grade shall be treated with an approved wood preservative or be of pressure treated wood.
 - iii) Have top and bottom rails of at least 50 millimetres x 100 millimetres (2 inches x 4 inches) nominal dimensions.
 - iv) Have no openings that would allow the passage of a spherical object having a diameter larger than 100 millimetres (4 inches).
- d) Other types – Other types of fences including chain link, retaining walls, building walls on deck guards to serve as pool fences shall be constructed in accordance with the requirements of the Designated Official.
- e) Shall have no part consisting of barbed wire or have no similar dangerous characteristics such as a device for projecting electric current through the fence.
- f) A wall or walls of a building or buildings may form part of such fence provided that all doors affording access from a building directly to an enclosed Swimming Pool area, other than doors located in a dwelling unit, are equipped with a self closing device and self-latching device located not less than forty-eight (48) inches above the bottom of the door.

Above Ground Pool

Only the ladders or stairs providing access to an above ground pool need to be enclosed in accordance with the By-law provided the following conditions are maintained:

- i) The sides of an above ground pool shall be not less than 1.2 metres (3.94 feet) in height measured from the finished grade and any climbable fixture or feature on the exterior face of the pool wall to the top rail of the pool wall, as determined at the time of the initial pool enclosure approval.
- ii) Pumps, air conditioners, heaters, filters or other appliances or equipment shall be located not less than 1.2 metres (3.94 feet) from the top rail of the pool walls or shall be enclosed in accordance with this By-law.

Spas

Outdoor spas need not be enclosed by a pool enclosure provided they are enclosed by a solid, locked cover that is secured over the entire water surface when the area surrounding the spa is unattended by a supervisory adult.

3. **FEES**

3.1 The fee for issuance of a permit under this By-law shall be \$50.00.

4. **ADMINISTRATION AND ENFORCEMENT**

4.1 The administration and enforcement of the By-law shall be under the authority of the Designated Official of the Corporation of the Township Adjala-Tosorontio.

4.2 The provisions of this By-law shall apply to all installations or alterations of privately owned outdoor Swimming Pools regardless of the date of construction of such Swimming Pool.

5. **OFFENCES**

5.1 Any person who contravenes any section of this By-law is guilty of an offence and liable upon conviction to a fine of not more than \$5,000 pursuant to and recoverable under the Provincial Offences Act, as amended from time to time.

6. **REPEAL OF EXISTING BY-LAW**

a. By-law 97-56, as amended, is hereby repealed.

7. **IN FORCE**

a. This By-law shall come into force and take effect from the date of passage hereof.

THAT, notwithstanding anything contrary to the rules of procedure, this By-law be introduced and read a first and second time and be considered read a third time and finally passed this 2nd day of May, 2005.

“Tom Walsh”

Mayor Tom Walsh

“Barb Kane”

Clerk Barb Kane