

The Corporation of the Township of Douro-Dummer

By-law Number 1999-27

Being a By-law Respecting the Erection and Maintenance of Fences and Gates Enclosing Privately Owned Outdoor Swimming Pools.

Whereas Subsection 30 of Section 210 of the Municipal Act, R.S.O. 1990, c.A.45, as amended, empowers Municipal Councils to pass by-laws and regulations governing the erection and maintenance of fences and gates enclosing privately-owned outdoor swimming pools;

And Whereas the Corporation of the Township of Douro-Dummer deems it in the public interest to regulate the enclosing of privately-owned outdoor swimming pools;

Now Therefore the Council of The Corporation of the Township of Douro-Dummer enacts as follows:

1. Title:

This by-law may be referred to as the "Swimming Pool By-law" for privately owned outdoor swimming pools.

2. Definitions:

In this by-law:

- 2.1. "Authority having jurisdiction" means the By-law Enforcement Officer, the Chief Building Official and any official authorized by Council to administer this by-law;
- 2.2. "Effective ground level" means the highest level of the ground at any particular location taking into consideration the surrounding ground level for a horizontal distance of four feet either side of the location being considered. For the purposes of this definition, a floor may be considered as the ground;
- 2.3. "Privately-owned outdoor swimming pool" means any privately-owned body of water located out of doors which is contained wholly or partly by artificial means and which can hold water exceeding 61cm (24") in depth at any point, and which is used or capable of being used for swimming, wading, diving or bathing. Not included in this definition is any swimming pool owned by a public or governmental body, agency or authority, a farm pond or any other body of water used for water supply or the water supply for livestock;
- 2.4. "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 services as opposed to the main or principal entrance.

For the purpose of this by-law any building entrance other than the principal entrance may be considered to be a service entrance;

- 2.5. "Swimming Pool Area" means the swimming pool plus any surrounding platforms, walkways, play areas and landscaped areas which lie within the swimming pool enclosure;
- 2.6. "Swimming Pool Enclosure" means a fence or wall or combination thereof including any doors or gates surrounding a privately-owned outdoor swimming pool and restricting access thereto;
- 2.7. "Built-up area" means an area having not less than fifty percent (50%) of the frontage, for a distance of not less than one hundred and fifty meters (150 meters) on one side of a roadway occupied by dwellings, buildings used for business purposes, schools or churches; or an area having not less than fifty percent (50%) of the frontage upon both sides of the roadway for a distance of not less than one hundred meters (100 meters) occupied by dwellings, buildings used for business purposes, schools or churches;
- 2.8. Any word or words not defined herein shall rely on the definition given that word or words in the zoning by-law of the Corporation of the Township of Douro-Dummer.

3. Authority:

The authority having jurisdiction shall administer this by-law.

4. Applications and Fees:

An application for a permit to construct an enclosure around a privately-owned outdoor swimming pool shall be submitted to the authority having jurisdiction together with drawings in duplicate showing all details of the proposed work. The fee payable for the above noted permit shall be the fee required in Schedule "A" of the "Building Permit By-law" of the Corporation of the Township of Douro-Dummer.

5. Permits:

- 5.1. No person shall excavate for, erect or construct a privately-owned outdoor swimming pool without first obtaining a permit to do so from the authority having jurisdiction;
- 5.2. No person shall erect or construct a privately-owned outdoor swimming pool so as to interfere with the natural drainage of adjacent lands or to adversely affect the operation or effectiveness of any sewage disposal system;
- 5.3. The required clearances between swimming pool and private sewage disposal systems shall be as follows:
 - 5.3.1. The minimum distance between a swimming pool and septic tank 1.524 meters (5 feet).

5.3.2. The minimum distance between a swimming pool and a leaching bed where the bottom of the distribution pipe is below the level of the lowest part of the pool shall be 3.048 meters (10 feet).

5.3.3. The minimum distance between a swimming pool and a leaching bed where the bottom of the distribution pipe is on the same level or above the lowest part of the pool shall be 7.62 meters (25 feet).

6. Required Enclosures:

6.1. The owner of any lands on which a privately-owned outdoor swimming pool is located or erected or proposed to be located or erected shall erect and maintain in good order an enclosure around the entire swimming pool area. The purpose of such enclosure will be to render the pool area inaccessible to small children acting on their own;

6.2. No person shall fill or cause to be filled a privately-owned outdoor swimming pool with water or allow water to remain therein unless the required enclosure prescribed by the by-law has been provided;

6.3. The swimming pool enclosure required under this by-law shall extend from the effective ground level to a minimum vertical height of;

6.3.1. 1.22 meters (4 feet) in the case of a privately-owned outdoor swimming pool serving a detached or semi-detached dwelling unit or a multi-family development of not more than four dwelling units;

6.3.2. 1.524 meters (5 feet) in the case of a privately-owned outdoor swimming pool serving a multiple family development containing more than four dwelling units of a commercial development, such as a hotel, motel, resort, inn or a swimming pool sales display or a club.

6.4. The wall of a building may form part of the required pool enclosure, except where such a provision would result in any of the following being located within said pool enclosure;

6.4.1. A main building entrance;

6.4.2. A service entrance to a multiple occupancy building containing more than four dwelling units;

6.4.3. A utility meter or furnace oil filler pipe which requires periodic inspection or attendance by utility or service personnel.

6.5. The required swimming pool enclosure (except for any building wall which may form part thereof) shall have no attachments on the exterior face such as horizontal or diagonal bracing, horizontal rails or other members which would facilitate climbing;

6.6. The swimming pool enclosure shall be located at least 4 feet distant from any outside structure, fence, tree, air conditioning unit, meter, steps, ledges, window sills, etc. which might afford a means whereby the enclosure could be scaled from the outside by a small child;

6.7. The swimming pool enclosure shall be constructed in accordance with Sections 7 and 8 of this By-law.

7. Fences as Enclosures:

7.1. A fence or its equivalent which is to form a swimming pool enclosure or part thereof shall be of;

7.1.1. Chain link construction or:

7.1.2. Vertical board construction;

7.2. A fence of chain link construction 1.22 meters (4 feet) high shall:

7.2.1. Have a mesh not greater than 3.81 cm (1.5") consisting of 12-gauge galvanized steel wire or of 14-gauge steel wire covered with vinyl or other approved coating which would yield a total thickness equivalent to 12-gauge steel wire;

7.2.2. Be supported by a minimum 3.81 cm (1.5") diameter galvanized steel posts spaced not more than 3.048 meters (10 feet) apart. Such posts must extend at least .92 meters (3 feet) below grade and be encased in concrete at least 5.05 cm (2") thick all around;

7.2.3. Have top and bottom rails firmly fastened to upright posts and made of 3.175 cm (1.25") diameter galvanized steel pipe. A 9-gauge galvanized steel wire or 11-gauge wire with vinyl or other approved coating, forming a total thickness equivalent to 9-gauge galvanized wire, may be substituted for a bottom horizontal rail.

7.3. A fence of chain link construction of 1.524 meters (5 feet) high shall;

7.3.1. Have a mesh not greater than 3.81 cm (1.5") consisting of 12-gauge galvanized steel wire or of 14-gauge steel wire covered with vinyl or other approved coating which would yield a total thickness equivalent to 12-gauge steel wire;

7.3.2. Be supported by a minimum of 3.81 cm (1.5") diameter galvanized steel posts spaced not more than 3.048 meters (10 feet) apart. Such posts must extend at least 1.22 meters (4 feet) below grade and be encased in concrete at least 5.05 cm (2") thick all around;

7.3.3. Have top and bottom rails firmly fastened to upright posts and made of 3.18 cm (1.25") diameter galvanized steel pipe.

7.4. A fence of wood construction shall:

- 7.4.1. Have vertical boarding 2.54 cm (1") nominal thickness 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 2.54 cm X 10.16 cm (1" X 4") nominal and must be spaced not more than 3.81 cm (1.5") apart;
 - 7.4.2. Be supported by posts at least 10.16 cm X 10.16 cm (4" X 4") nominal dimensions spaced not more than 2.44 meters (8 feet) apart. Such posts shall extend at least .92 meters (3 feet) into the ground and be securely embedded therein;
 - 7.4.3. Have the entire post treated with an approved wood preservative unless the post is factory "pressure-treated";
 - 7.4.4. Have top and bottom rails at least 5.08 cm X 10.16 cm (2" X 4") nominal dimensions.
- 7.5. A fence (or its equivalent) of any other construction which yields an equivalent or greater degree of safety to that specified in subsections 7.2, 7.3 and 7.4 of this Section may be approved by the authority having jurisdiction upon receipt of completed plans and specifications for such fence.
- 7.6. Fences (or their equivalents) when forming part of the required swimming pool enclosure shall:
- 7.6.1. Contain no barbed wire, electrical wiring, sharp projections or any other dangerous characteristics either on the outside or the inside;
 - 7.6.2. Be located not less than 1.22 meters (4 feet) from the nearest inside wetted surface of the swimming pool wall.

8. Gates and Entrances to the Pool Area

- 8.1. Gates which form part of the swimming pool enclosure shall be:
- 8.1.1. Of such height and of such construction as will provide a degree of safety and rigidity equivalent to or greater than that of a required fence;
 - 8.1.2. Supported on substantial hinges;
 - 8.1.3. Self-closing and self-latching with the latching device at the top of and on the inside of the gate.
- 8.2. Doors which form part of the swimming pool enclosure but which do not lead directly from a private dwelling unit or rooming unit shall be:
- 8.2.1. Of such height and such construction as will provide a degree of safety and rigidity equivalent to or greater than that of a required fence;
 - 8.2.2. Supported on substantial hinges;
 - 8.2.3. Self-closing and self-latching with the latching device located at least 1.524 meters (5 feet) above the bottom of the door.

- 8.3. All entrances to the pool area which form part of the swimming pool enclosure, whether they be doors, windows or gates, shall be kept locked at any time when the pool contains 61 cm (24") of water and is not attended by a responsible person;
- 8.4. The owner of any land upon which a privately-owned outdoor swimming pool is located, other than land used for a single family or semi-detached dwelling unit or multiple family developments of not more than four dwelling units shall keep such swimming pool covered except during the season when the pool is actually in use. Such pool cover shall be of durable material and construction and shall be adequately secured in place.

9. Above Ground Swimming Pools

- 9.1. Notwithstanding anything contained herein, an enclosure shall not be required where the outside wall of a pool is elevated at least 1.22 meters (4 feet) above the effective ground level adjacent to the pool and each and every entrance to the pool and each and every piece of equipment related to the operation of the pool within 1.524 meters (5 feet) of the pool is enclosed in compliance with the requirements of this by-law. The outside wall of the pool shall be free of any horizontal members or diagonal bracing which might facilitate climbing by a small child acting on his/her own.
- 9.2. Certain above ground privately-owned outdoor swimming pools which have as an integral part of their construction a fenced walkway around all or part of the pool shall be deemed to comply with this by-law if:
- 9.2.1. The fence is a minimum of 91.44 cm (36") in height and
- 9.2.2. The fence is a minimum of 91.44 cm (36") from the wetted wall of the pool, and;
- 9.2.3. All entrances to the pool and all pool related equipment within 1.524 meters (5 feet) of the pool are enclosed in compliance with the requirements of this by-law or are rendered inaccessible to a small child acting on his/her own.

10. Built-Up Areas

- 10.1. Notwithstanding anything contained herein, any man-made pond, water garden, on-grade fountain pool, wading pool, or other body of water exceeding 61 cm (24") in depth and located in a "built-up area" as defined by this by-law shall comply with all of the requirements of this by-law.

11. Scope

- 11.1. The provisions of this by-law shall apply to all privately-owned outdoor swimming pools and man-made bodies of water regardless of the date of construction.

12. Penalties

12.1. Any person convicted of a breach of any provision of this by-law shall forfeit and pay, at the discretion of the convicting Judge or Justice of the Peace, a penalty not exceeding \$5000.00 for each conviction exclusive of costs.

13. Effect

13.1. This by-law shall come into force and take effect immediately on the passing hereof and any owner not complying with the regulations herein contained shall drain the privately-owned outdoor swimming pool or body of water and keep it drained until such time as the regulations herein are complied with.

14. Repealed By-laws

14.1. By-law No. 1974-4, as amended, of the former Township of Douro and by-law No. 20-1980, as amended, of the former Township of Dummer shall be repealed immediately subsequent to this by-law coming into full force and effect.

Passed in open Council this 6th day of April, 1999.

Original Signed
Reeve

Original Signed
Clerk