

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. 1959 (1997)

Being a by-law to require owners of privately-owned outdoor swimming pools to, among other things, erect and maintain fences and gates around such swimming pools.

WHEREAS Paragraphs 25, 30 and 83 of Section 210 of the Municipal Act, Chapter M.45 of the Revised Statutes of Ontario, 1990, provide that by-laws may be passed by the councils of local municipalities for requiring owners of privately-owned outdoor swimming pools to, among other things, erect and maintain fences and gates around such swimming pools;

AND WHEREAS the council of the corporation of the Town of Pelham deems it desirable to enact such a by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

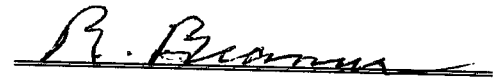
1. This by-law shall be known as "the pool by-law";
2. In this by law,
 - (a) "By-law Enforcement Officer" means the Chief Building Official of the Corporation of Town of Pelham or designate;
 - (b) "Corporation" means the Corporation of the Town of Pelham;
 - (c) "Outdoor Swimming Pool",
 - (i) means an artificially contained body of water located outdoors and capable of holding a water depth of more than 660 mm (26 in.) to be used or maintained for the purpose of swimming, bathing or wading, and
 - (ii) includes above ground and below ground structures for such purposes, and
 - (iii) does not include a natural body of water, or stream.
3. No person is to place water in a privately-owned outdoor swimming pool or allow water to remain in such a swimming pool unless there is erected and maintained the fences and gates prescribed by this By-law;
4. No person is to excavate for or erect a privately owned outdoor swimming pool until:
 - (a) an application for permit, including plans showing the pool, fences and gates are filed with the By-law Enforcement Officer, and

- (b) the owner pays to the Corporation the fees and deposits prescribed by the Corporation, and
 - (c) the By-law Enforcement Officer issues a permit certifying the approval of such application and plans.
5. Every owner of a privately-owned outdoor swimming pool is to enclose such a swimming pool by a fence extending from the ground at the fence measured vertically to a height of not less than 1.5 m (4.92 ft.) and not more than 1.82 m (6 ft.) constructed of,
- (a) chain link wire of a size not less than nine (9) gauge galvanized or plastic coated wire with links of a diameter of not more than 50 mm (2 in.), with minimum diameter 64 mm (2.5 in.) capped galvanized corner posts, minimum diameter 38 mm (1.5 in.) capped galvanized intermediate posts, minimum diameter 38 mm (1.5 in.) top rail and having a maximum 76 mm (3 in.) space from the ground to the bottom of the fence;
 - (b) wood, plastic or metal panel braced horizontally by a top and bottom rail at least 38 mm x 89 mm (1.5 in. x 3.5 in.) wood or equivalent material with no opening, other than for a gate, greater than 50 mm (2 in.) in width, between 89 mm x 89 mm (3.5 in. x 3.5 in.) wood posts or equivalent spaced not more than 3.m (9.84 ft.) apart and having a maximum space of 76 mm (3 in.) from the ground to the bottom of the fence;
 - (c) ornamental metal fence of vertical bars spaced not more than 100 mm (4 in.) apart fastened to top and bottom rails of minimum 25 mm x 25 mm x 3 mm (1 in. x 1 in. x 1/8 in.) angle between minimum 38 mm (1.5 in.) solid square posts spaced not more than 2.5 mm (8.2 ft.) apart and having a maximum space of 76 mm (3 in.) from the ground to the bottom of the fence;
 - (d) masonry comprised of brick or concrete block with no opening therein from the ground measured vertically to a height of not less than 1.5 m (4.92 ft.), except for a gate;
- and such fence is to be located so that entry to the privately-owned outdoor swimming pool is only possible by means of one or more gates in such fence.
6. The fence described in Section 5 shall,
- (a) be equipped and maintained with a gate or gates of the same materials as is described for fences and of a height prescribed for such fences together with self-closing and self-latching devices located and arranged at the top and pool side (inside) of the gate, so as to prohibit entry by closing and latching at all times, and

- (b) not contain barbed wire or any facility for projecting an electrical current, and
 - (c) not contain any projections that will facilitate climbing, and
 - (d) be located at least 1.5 m (4.92 ft.) from any structure, tree or other projection which would facilitate climbing over the privately-owned outdoor swimming pool fence, and
 - (e) be located at least 1.5 m (4.92 ft.) measured horizontally from the water's edge.
7. Every gate is to be kept closed and locked at all times when the privately-owned outdoor swimming pool is not under competent supervision.
8. The fence enclosing any privately-owned outdoor swimming pool may have a wall or wall of a building as part of such fence provided the wall is at least 1.5 m (4.92 ft.) in height measured vertically from the ground but if the wall has any door or doors, such door or doors are to be kept securely locked when the pool is not under competent supervision.
9. The provisions of this by-law requiring the erection and maintenance of a fence that shall completely enclose the privately-owned outdoor swimming pool shall not apply if the outside wall of the privately-owned outdoor swimming pool has a height of not less than 1.5 m (4.92 ft.) measured from ground level at all points on the perimeter of such wall provided that any steps, ladder, platform, deck or other means of entry to the privately-owned outdoor swimming pool are protected by a fence and gate which comply with all other requirements contained herein. The perimeter of any platform or deck forming part of the privately-owned outdoor swimming pool enclosure shall be protected by a continuous guard or balustrade of not less than 900 mm (36 in.) in height from the top of the deck or platform and such guard or balustrade shall be constructed in accordance with Section 5 above.
10. Swimming pool water may be emptied into a storm sewer or drainage ditch at a rate no greater than 300 litres (116 gals.) per minute (approximately twice the flow of a 1/3 H.P. pump). Swimming pool water shall not be emptied into any sanitary sewer.
11. The provision of this by-law shall apply to all privately-owned outdoor swimming pools within the Town of Pelham subject to any exclusions or special provisions provided for in Schedule "A" to this by-law.
12. The enforcement of this by-law shall be under the jurisdiction of the By-law Enforcement Officer.

13. Any person who contravenes this by-law is guilty of an offence and on conviction is liable to a penalty as prescribed by the Provincial Offences Act.
14. That By-law No. 476 (1978), as amended, be and is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
15th DAY OF DECEMBER, 1997 A.D.



MAYOR



CLERK