

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2002-85

**Being a By-law requiring the owners of privately owned
outdoor swimming pools to erect and maintain
fences around such swimming pools**

WHEREAS it is deemed expedient to exercise the authority vested in the Council of the Corporation of the Town of Amherstburg pursuant to Section 210 (30) of the Municipal Act, R.S.O. 1990, Chapter M.45;

AND WHEREAS Council deems it expedient to enact such a by-law

**NOW THEREFORE THE COUNCIL OF THE
TOWN OF AMHERSTBURG ENACTS AS FOLLOWS:**

1. SHORT TITLE

THIS BY-LAW MAY BE CITED AS THE SWIMMING POOL ENCLOSURE BY-LAW.

2. DEFINITIONS AND WORD USAGE

- (a) “Effective Ground Level” means, for any point at a particular location, the highest level of the ground within a four metre radius measured horizontally from the point. For the purposes of this definition a floor or pool deck may be considered as the ground.
- (b) “Fence” means any barrier or barricade, constructed of chain link metal or of wood, stone, metal or material having an equivalent degree of strength, that encompasses either in whole or in part, a swimming pool area, and includes any gate or entrance attached to and forming part of a fence, but does not include a wall.
- (c) “Gate” and “Entrance” means any part of a fence or wall through which access may be gained to a swimming pool area.
- (d) “Owner” includes a lessee or tenant, firm, corporation, club or unincorporated society.
- (e) “Person” means an individual, lessee or tenant, firm, corporation, club or unincorporated society.
- (f) “Privately-Owned” means owned by a person other than public or government body, agency or authority.
- (g) “Swimming Pool” for the purpose of this by-law means any body of water located outdoors on privately-owned property maintained or used or which may be used for swimming, wading or bathing purposed in which the depth of water at any point can exceed 60 centimetres including an above ground swimming pool, but does not include a portable wading pool which is less than 60 centimetres and is intended to be normally emptied on a daily or more frequent basis.
- (h) “Swimming Pool Enclosure” means a fence or wall or any combination thereof including any doors or gates surrounding a privately-owned outdoor swimming pool and restricting access thereto.

- (i) "Wall" means the exterior surface of one or more sides of a building or structure that is firmly secured to the ground, which surface encompasses, either in whole or in part, the swimming pool area, and includes part of a wall.

2. ADMINISTRATION

Enforcement of this by-law shall be under the jurisdiction of the Chief Building Official for the Town of Amherstburg, or such other person as the Chief Building Official or Council of the Town of Amherstburg designate.

3. RESTRICTIONS

No person shall maintain a privately owned outdoor swimming pool within the limits of the Town of Amherstburg, unless such pool or the land or part of the land on which such pool is located is effectively fenced and/or enclosed in accordance with the following provisions:

- (a) Every fence shall be not less than 1.22 metres in height measured from the top of the fence to effective ground level.
- (b) Every fence shall be so constructed that it cannot be used in a manner similar to a ladder.
- (c) A dwelling, house, building, or accessory building may be utilized to effectively enclose any pool.
- (d) Every fence shall be so constructed so as to have as the means of entry by gates or doors.
 - (i) All gates or doors shall be equipped with a self-closing device and a self-latching device on the pool side at the top of the gate to the intent that all gates or doors will remain securely closed when not in actual use.
 - (ii) Each gate must be equipped with a lock and each gate must be locked when the pool is not in use.
 - (iii) Part (i) shall not apply to the door of any dwelling house shall not apply to the door of any dwelling house which forms a part of the enclosure.
- (e) The use of barbed wire in any manner, or any device for projecting any electric current in any connection with or through any such perimeter fence is prohibited.
- (f) Sundecks or walkways may be utilized to effectively enclose any pool providing that they are constructed in such a manner as to prevent climbing and must be 1.22 metres in height.
- (g) The enclosing must be constructed a minimum of 1.22 metres horizontal distance from any outside structure such as a tree, air conditioning unit, pool filtration equipment, steps, window sills, etc., which might afford a means which would allow the enclosure to be scaled from the outside.

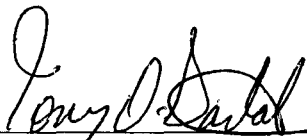
Enclosure is to be increased to a height of 1.83 metres for a distance of 3 feet on each side of any structure which could constitute a climbing hazard.
- (h) No person shall construct or erect a swimming pool inground or above without first obtaining a building permit from the Chief Building Official.
- (i) No person shall connect any drain or water supply directly to a swimming pool without first obtaining a Building Permit from the Chief Building Official,


- (j) No person shall place water in or allow water to remain in any swimming pool or swimming pool excavation until such time as fences and gates in accordance with the requirements of this by-law, have been installed around such pool or excavation. Approved temporary fencing may be used during construction until the basic pool construction has been completed.

4. ABOVE-GROUND SWIMMING POOLS

- (a) For the purposes of this by-law, above ground privately owned outdoor swimming pools are considered to require the same enclosures around the entire pool as those for inground pools unless:
 - (i) A separate enclosure is not required for above ground pools which have as an integral part of their construction, sides which are a minimum of 1.22 metres high measured from effective ground level. Such pool sides are to be constructed in a manner which prevent climbing, horizontal members which could be used similar to a ladder are prohibited. All equipment such as pool filters and equipment are to be located in a manner which will prevent their use in scaling of the pool wall. A minimum clear distance of 1 metre will be maintained between any equipment landscaping, steps, window sills, etc., which might afford a means of which would allow the wall to be scaled.
 - (ii) Where pool sides are utilized as an effective enclosure, the access ladder to the pool shall be enclosed in the same manner as prescribed for inground pools and fitted with a self-closing lockable gate. Removable ladders and such devices are acceptable provided they are removed and locked when the pool is not in use. All such enclosures and devices are to be approved by the Chief Building Official.
 - (iii) If an above ground swimming pool has as an integral part of its construction, a deck which is level with the top of the pool, there shall be fence around the swimming pool area which is at least 914 mm higher than the deck and at least 914 mm from the nearest wall of the pool provided that the top of such fence when measured from ground level shall not be less than 1.52 metres. Such construction shall be constructed in a manner 1.20 metres to prevent the enclosure from being scaled from the outside.
 - (b) No fence shall be required where there is no deck abutting above-ground swimming pool and the top of the outside wall of such swimming pool is at least 1.22 metres above the level of the ground abutting the wall and which vertical sides are constructed so as not to facilitate climbing, provided access points are fenced in accordance with this by-law and the outside enclosure is equivalent to the standards for fences in this by-law.
5. The provisions of this by-law shall apply to all privately owned outdoor swimming pools regardless of the date of construction of such swimming pool.
6. That By-law 2347 is hereby repealed.
7. This By-law shall come into force and take effect on the day of the final passing thereof.

Finally passed this 16th day of December, 2002.



MAYOR


CLERK

1st Reading: December 16, 2002

2nd Reading: December 16, 2002

3rd Reading: December 16, 2002