

## THE CORPORATION OF THE TOWN OF SAUGEEN SHORES

### BY-LAW 35-2003

#### A BYLAW TO PROVIDE FOR THE FENCING OF PRIVATELY OWNED SWIMMING POOLS

**WHEREAS** pursuant to Section 11 of the Municipal Act R.S.O. 2001, c.25, as amended, a lower-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction;

**AND WHEREAS** pursuant to Section 11(7) "structures, including fences and signs" is a sphere of jurisdiction that may be assigned to the lower tier municipality;

**AND WHEREAS** pursuant to Section 15(4) of the Municipal Act R.S.O. 2001, c.25, as amended, a by-law may be passed with respect to fences;

**AND WHEREAS** it is deemed necessary to issue permits for swimming pool fences and to prescribe safety standards for privately owned outdoor swimming pools;

**AND WHEREAS** Section 391(1) of the Municipal Act, R.S.O. 2001, c.25, provides that the Council may by by-law impose fees for services and activities provided or done by or on behalf of the Corporation of the Town of Saugeen Shores;

**AND WHEREAS** it is expedient to impose fees for certain services provided by the Building Department;

**NOW THEREFORE** the Municipal Council of the Town of Saugeen Shores **ENACTS** as follows:

In this by-law:

1. (a) "**Fence**" means either:

- i. Chain link fencing, or at least 13 gauge, of not less than one and two tenths metres (1.2 metres) (4 feet) in height and supported by iron posts set in concrete to a depth of at least six-tenths metres (0.6 metres) (2 feet) and spaced not more than three metres (3 metres) (10 feet) apart, with a supporting rail along the top of the fence between posts; or
- ii. A privacy fence with the material installed vertically and such fence being not less than one and one-half (1.5 metres) (5 feet) in height.
- iii. The horizontal supporting rails of such fence shall not be less than 1.2 metres (4 feet) apart. The vertical opaque material shall be installed on the exterior of the support rails.

(b) "**Swimming Pool**" means any structure, basin, chamber or tank containing any artificial body of water for swimming, diving or recreational bathing that:

- a. has a depth of more than 75 centimeters (29 inches) at any point, and;
- b. has a surface area of more than 1 square metre (10.8 square feet), and;
- c. is not under the jurisdiction of the Building Code, and;
- d. is not completely inside a building, and;

- e. is not owned by government or a local board or commission constituted under any statute or by-law, and;
  - f. is not a pond or reservoir to be utilized for farming purposes and;
  - g. but excludes hydro massage pools, and;
  - h. excludes storm water management ponds.
2. Every owner of a privately owned outdoor swimming pool shall erect and maintain completely around such pool a fence. The height of the swimming pool fence shall be measured from the ground level on the outside of the enclosure and shall be of sturdy construction, capable of preventing unauthorized entry.
- i. No part of the fence shall be less than one and two-tenths (1.2 metres) (4 feet) from the edge of the water in the pool.
  - ii. Every fence shall have gates which shall be the same height as the fence, shall be supported by substantial hinges and shall be equipped with a self-closing, self-latching device which shall be placed on the top on the inside of the gate. A self-latching device that can be opened without a key from the outside shall not be less than 122 centimetres (48 inches) above ground level.
  - iii. Such gates shall be kept closed and locked at all times when the owner of the swimming pool or his or her duly authorized agent is not present and supervising the swimming pool.
  - iv. Every fence shall have a clearance from the ground to the under side of the pool fence that would prevent the passage of a spherical object having a diameter of 10 centimetres (4 inches).
  - v. The provisions of the By-law requiring erection of a fence shall not apply if the entire outside wall of the swimming pool is elevated at least one and two-tenths (1.2 metres) (4 feet) above the grade of the ground abutting such wall and each entrance to the pool is protected by a gate of a height equal to the height of the pool and having self closing, self-latching devices as provided in Section 2 (ii) and (iii) and/or detachable ladder which shall be removed from the pool at all times when such pool is not under competent supervision.
  - vi. No part of such fence shall consist of barbed wire.
  - vii. Any device for projecting an electric current through such fence is prohibited.
3. A permit shall be obtained from the Chief Building Official of the Town of Saugeen Shores by the owner or his legal authorized agent for the excavation and construction of the outdoor swimming pool, fences and gates. No such work shall be commenced and no person shall proceed with any such work until a permit therefore has been first obtained from the Building Department.
4. No owner of a privately owned outdoor swimming pool shall release or permit to remain any water in such swimming pool until a fence has been erected in accordance with this By-law.
5. Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offence Act.

6. The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
7. Where anything required to be done in accordance with this by-law is not done, the Chief Building Official for the Town of Saugeen Shores appointed pursuant to the Building Code Act may, upon such notice as he/she deems suitable, do such thing at the expense of the person required to do it and such expense may be recovered by action or in like manner as municipal taxes.
8. That By-law No. 14-84 for the former Town of Port Elgin passed on the 22<sup>nd</sup> day of May, 1984; and  
By-law 1419 for the former Town of Southampton passed on the 22<sup>nd</sup> of March, 1971; and  
By-law No. 11-83 for the former Township of Saugeen passed on the 16<sup>th</sup> day of May, 1983,  
and all of their amendments be hereby repealed.
9. This by-law shall come into full force and effect on final passing.
10. This by-law may be cited as the "Fencing of Private Swimming Pools" By-law.

READ A FIRST AND SECOND TIME THIS 12<sup>TH</sup> DAY OF MAY, 2003.

READ A THIRD TIME AND FINALLY PASSED AND SEALED THIS 12<sup>TH</sup> DAY OF MAY, 2003.

**ORIGINAL DOCUMENT SIGNED BY THE MAYOR AND CLERK**