

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 05-95

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 the Town of Lincoln is empowered under Sections 8, 9.(3)(a), 9.(3)(b) and 11, of the Municipal Act 2001, S.O. 2001, c.25, to among other things, require owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools;

AND WHEREAS the Council of the Town of Lincoln deems it expedient to enact a by-law to fully exercise its powers under the said sections of the Municipal Act, 2001;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

1. In this By-law:

- (a) **“Chief Building Official”** means the Chief Building Official as appointed by By-law of the Council of the Corporation of the Town of Lincoln.
- (b) **“Outdoor Swimming Pool”** means a privately owned body of water located at, below or above ground in which the depth of the water at any point can exceed 0.6 metres and is used or capable of being used for swimming, diving or bathing, but shall not include a pond or other such body of water, created and used or intended to be used, for agricultural or industrial purposes, or a natural body of water, pond or stream.
- (c) **“Town”** means the Corporation of the Town of Lincoln

2.

- (a) No person shall place water in a privately owned outdoor swimming pool or allow water to remain in such pool unless there is erected and maintained fences and gates prescribed by this By-law.
- (b) No person shall excavate for, or erect a privately owned outdoor swimming until;
  - (i) An application for permit, including plans showing fences and gates are filed with the Chief Building Official; and
  - (ii) The owner pays to the Corporation the required fee in respect of the aforesaid application; and
  - (iii) The Chief Building Official issues a permit certifying the approval of such application and plans.

3.

- (a) Every owner of a privately owned outdoor swimming pool shall enclose such pool by a fence extending from the ground measured vertically to a height of not less than 1.2 metres of:
  - (i) Wire of a size not less than twelve (12) gauge galvanized or plastic coated with links of a diameter of not more than thirty-eight (38) millimetres; or

- (ii) Steel panels or wood materials that are of equivalent strength, in the opinion of the Chief Building Official, to the fence described in clause (i) of this subsection and with no opening therein, other than for a gate, greater than 38 millimetres; or
- (iii) Masonry comprised of brick or concrete with no opening therein from the ground measured vertically to a height of not less than 1.2 metres, except for a gate; or
- (iv) Iron or tubular steel/aluminum pickets that are of equivalent strength, in the opinion of the Chief Building Official, to the fence described in clause (i) of this subsection, with no opening therein, other than for a gate, greater than 100 millimetres and shall be designed so that no member, attachment or opening located between 100 millimetres and 1100 millimetres above the ground shall facilitate climbing.

Such fence is to be located so that entry to the swimming pool is only possible by means of one or more gates in such fence.

(b) Every fence described in subsection (a) of this Section:

- (i) Is to be equipped with a gate or gates, of the same material as is described in clauses (i) or (ii) or (iv) of subsection (a) of this Section and of a height prescribed for the fence under subsection (a) of this Section together with locks and self-latching devices located and arranged at the top and inside of the gate, so as to prohibit entry by closing and locking when such pool is not under competent supervision; and
- (ii) Is not to contain barbed wire or any facility for projecting electric current; and
- (iii) Is not to contain any projections that will facilitate climbing; and
- (iv) Is to be located more than 1.2 metres from any building or tree or any other projection, which would facilitate climbing over the swimming pool fence.

(c) Every gate is to be kept closed and locked at all times when the privately owned outdoor swimming pool is not under competent supervision.

(d) A fence enclosing a 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 1.2 metres 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.

4. The provisions of Section 3 hereof do not apply to a privately owned outdoor swimming pool if:

- (a) The pool wall has a minimum height of 1.2 metres measured from the abutting grade to the top of the pool wall; and
- (b) If a platform is attached to the entire perimeter of the pool at a height of not less than 1.2 metres above grade, the perimeter of the attached platform shall be protected by a continuous balustrade of not less than 0.9 metres in height; and
- (c) The entrance or entrances to such pool has a gate that complies with Section 3(b) hereof; but

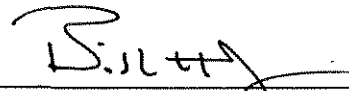
If any structure or other projection is attached or not attached to the wall of the pool that would facilitate climbing, then such structure or projection is to be enclosed by a fence and gates as prescribed in Section 3 hereof.

5. This By-law is to be enforced by the Chief Building Official.
6. Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction thereof is liable to a fine in accordance with the provisions of the Provincial Offences Act, R.S.O. 1990, CP33, as amended.
7. By-law No. 04-57 is hereby repealed.

READ A FIRST TIME THIS 21<sup>st</sup> DAY OF NOVEMBER, 2005

READ A SECOND TIME THIS 21<sup>st</sup> DAY OF NOVEMBER, 2005

READ A THIRD TIME AND FINALLY PASSED THIS 21<sup>st</sup> DAY OF NOVEMBER, 2005



MAYOR: BILL HODGSON



CLERK: WILLIAM J. KOLASA