

TOWN OF HANTSPORT

BY-LAW 2008-6

RESPECTING THE ENCLOSURE OF AND ACCESS TO SWIMMING POOLS

The Council of the Town of Hantsport, in the Province of Nova Scotia, enacts as follows:

Short Title:

1. This By-Law shall be known as and may be cited as the "Swimming Pool By-Law".

Interpretation:

2. In this By-Law:

2.1 "Swimming Pool" means an excavation, structure or product, which is:

2.1.1 located outdoors on private property and

2.1.2. capable of being used for the purposes of swimming, wading, paddling or bathing and

2.1.3 capable of holding water in excess of 0.61m (2 feet) in depth at any point and

2.1.4 an open exposed water surface of 1m² (10.7 ft²) and

2.1.5 includes a hot tub and/or spa pool and landscape pond meeting the above criteria, but for the purposes of this by-law does not include any pool which is:

- (a) a pool owned by any public or governmental body, agency or authority, or;
- (b) an existing natural body of water or stream;

2.1.6 "Inflatable Pool" means a pool, as defined in this by-law, consisting of an air supported structure that contains or is capable of containing water with a depth in excess of 0.61m (2 feet) at any point;

2.2 "Temporary Pool" means an inflatable pool or other pool that is designed to be removed periodically on a seasonal or more frequent temporary basis;

2.3 "Pool Enclosure" means a fence, wall or built structure, or any combination thereof, which surrounds a Swimming Pool that is permanent and which includes a Self-Closing or Self-Latching Device and/or child resistant windows

2.4 "Temporary Pool Enclosure" means a temporary fence, wall or built structure, or any combination thereof, which surrounds a Swimming Pool during the construction process.

2.5 "Gate" means access through a fence, Temporary Pool Enclosure or a Pool Enclosure.

2.6 "Door" means access through a structure.

2.7 "Fence Height" means the height measured from the finished floor level or ground level at any point along the length of the fencing to the top of the fence, measured on the outside of the fencing;

2.8 "Self-Closing Device" means a mechanical device or spring that returns a Swimming Pool enclosure to its closed position within 30 seconds after it has been opened;

2.9 "Self-Latching Device" means a mechanical device or latch that is engaged each time the Gate is secured to its closed position, which will not allow the Gate to be re-opened by pushing or pulling, and which will ensure

the Pool Enclosure Gate remains closed until unlatched by either lifting or turning the device itself directly or by a key;

2.10 “Maintain” means to keep a Pool Enclosure in a condition that meets the requirements of this By-Law and to preserve the condition of the Pool Enclosure from failure or decline in order to ensure safety and strength.

2.11 “Owner” includes the registered Owner of any property; the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person’s own account or as agent or trustee of any other person, or who would so receive the rent if such land and premises were leased, and a lessee, tenant, mortgagee in possession, or person occupying or in charge of the property;

2.12 “Inspector” means the Town Building Inspector or By-Law Enforcement Officers authorized by the Town to act in his or her stead to administer this By-Law.

3. Application

3.1 This by-law shall apply to all Swimming Pools and Temporary Pools constructed, existing, replaced or situated within the Town.

3.2 nothing in this by-law permits the location of a pond, deck, platform or other structure in a location that is not permitted under the Town of Hantsport Zoning by-law.

4. Prohibitions

4.1 No person shall excavate, construct, install, enlarge or situate a Swimming Pool or a Temporary Pool without first obtaining a Pool Enclosure permit issued by the Town.

4.2 No person shall excavate, construct, install, enlarge or situate a Swimming Pool or a Temporary Pool that does not comply with their Pool Enclosure permit or the provisions of this By-Law

4.3 No Swimming Pool shall be filled with water until:

4.3.1 the Swimming Pool or Temporary Pool is enclosed by a Pool Enclosure or an approved Temporary Pool Enclosure that meets the requirements of this By-Law; and

4.3.2 the Inspector approves the Pool Enclosure or the Temporary Pool Enclosure

4.4 No person shall alter or replace a Pool Enclosure that has been inspected and approved by the Inspector without first obtaining a new Pool Enclosure permit.

4.5 No Owner shall fail to ensure that:

4.5.1 all Gates forming part of the Pool Enclosure meet the standards of this by-law;

4.5.2 all entranceways to a Pool Enclosure through a wall of a building meet the standards of this By-Law;

4.5.3 all Gates forming part of a Pool Enclosure are locked when the area is not in active use;

4.5(a) Where an owner has filled a Swimming Pool, or permits water to remain in a Swimming Pool, the Owner shall be required to remove all water from the Swimming Pool in violation of this By-Law or of the terms of their Pool Enclosure permit for as long as the violation remains.

4.5(b) If an Owner fails to comply with the provisions of Section 4.5(a), the Town's Servants or Agents are hereby authorized to enter onto the property of the Owner, to open any gate or lock necessary to gain access to the Swimming Pool, and to remove the water from the Owner's Swimming Pool for as long as the violation of the Pool Enclosure permit or By-Law continues. Costs incurred by the Town in removing the water from the Owner's pool, pursuant to this Section, shall be charged as a lien against the Owner's property and may be collected in the same manner and with the same remedies as provided for the collection of real property taxes.

4.6 No person shall place, pile, attach or lean any object or material against or near a Pool Enclosure so as to facilitate climbing of the Pool Enclosure, diminish the structural integrity of a Pool Enclosure or render the g Pool Enclosure in non-conformity with the provisions of this By-Law.

5. Applications for Permits

5.1 Every application for a Pool Enclosure permit shall be in a form specified by the Town of Hantsport and shall be accompanied by:

5.1.1 two sets of plans showing the location of the Swimming Pool, all proposed Swimming Pool equipment (such as filters, slides and heaters) and proposed landscape features in relation to property lines, buildings (including decks and shed), and easements;

5.1.2 complete details of the proposed Pool Enclosure, including the location and type of proposed fence and Gate; and

5.1.3 the permit fee(s) specified by Town Council;

5.1.4 the proposed access route for construction of the Swimming Pool from any public right of way to the proposed Swimming Pool location;

5.2 No Pool Enclosure permit shall be issued by the Town that does not comply with this By-Law or all other applicable statutes, regulations, by-laws, permits or approvals.

5.3 All Pool Enclosure permits issued by the Town pursuant to this By-Law shall include a condition that permit holders who fail to abide by the terms of the Pool Enclosure permit or of this By-Law will be required to remove all water from the Swimming Pool for as long as the contravention of the permit or By-Law continues.

6. Standards for Pool Enclosures

6.1 A Pool Enclosure must meet the following standards:

6.1.1 Height: the Pool Enclosure shall extend from the ground to a height of not less than 1.22m (4 feet). Height shall be measured from the finished ground level on the outside (not the Swimming Pool side) of the Pool Enclosure;

6.1.2 Opening and Materials:

(a) where the Pool Enclosure is constructed of chain link fence, the Pool Enclosure shall not have any openings that would allow the passage of a spherical object having a diameter exceeding 38mm (1.5 inches);

(b) where the Pool Enclosure is constructed of wood lattice (diagonal members), the Pool Enclosure shall not have any openings that would allow the passage of a spherical object having a diameter exceeding 38mm (1.5 inches);

(c) where the Pool Enclosure is constructed of vertical and horizontal members, if the horizontal structural members are greater than 114.3cm (45 inches) apart, the horizontal members can be located on the outside of the Pool Enclosure and the spacing between each vertical member shall not exceed 100mm (4 inches);

(d) where the Pool Enclosure is constructed of vertical and horizontal members, if the horizontal structural members are less than 114.3cm (45 inches) apart, the horizontal members must be located inside the Pool Enclosure and the spacing between each vertical member should not exceed 44.45mm (1.75 inches);

6.1.3 Ground Clearance: the space at any point between the Pool Enclosure and the finished ground level and/or finished floor level must not exceed 50mm (2 inches) and the ground beneath the Pool Enclosure cannot be loose gravel or other material that can be easily removed so as to afford access under the Pool Enclosure (see Figure 6);

6.1.4 Framing and Braces: except as specified in Section 6.1.2 (c) all horizontal structural members must be located inside of the Pool Enclosure as to prevent easy climbing; and

6.1.5 Location: subject to Section 6.1.6, the Pool Enclosure should only enclose the immediate Swimming Pool area and shall be located:

(a) not less than 0.61m (2 feet) from any enclosure that does not meet the requirements of this by law; and

(b) for Swimming Pools other than hot tubs and hydro-massage pools, on a level surface being not less than 0.91m (3 feet) from the water's edge of the Swimming Pool,

6.1.6 Location (access points): any Gate or entranceway forming part of a Pool Enclosure shall be at least 1.52m (5 feet) from the water's edge of the Swimming Pool.

7. Gates and Other Access Points

7.1 Gates

7.1.1 Every Gate in a Pool Enclosure must meet the following standards:

(a) constructed in accordance with the standards prescribed in Section 6.1 of this by-law;

(b) supported on substantial hinges, capable of supporting 90.72kg (200 lbs.) in body weight;

(c) equipped with a Self-Closing Device;

- (d) equipped with a Self-Latching Device that is located at least 1.22m (4 feet) above the finished floor level and/or finished ground level, and is located on the inside of the Pool Enclosure;
- (e) equipped with a lock located on the inside of the Pool Enclosure;
- (f) not have any member on the outside of the Pool Enclosure that would facilitate climbing of the Gate; and
- (g) an arc of operation outside of the Pool Enclosure as to prevent young children from inadvertently pushing and opening the Gate and gaining unsupervised access to the Swimming Pool area.

7.1.2 If the Gate to the Pool Enclosure is a double Gate access, made up of two Gates at the same location:

- (a) one of the two Gates shall have a Self-Closing Device and Self-Latching Device; and
- (b) the Gate of this double Gate access without a Self-Closing Device and a Self-Latching Device shall have a device permanently affixed to the ground or other non-movable object, which prevents access through this Gate without lifting or removing this device and then releasing the latch.

8. Temporary Fence

8.1 An Owner shall erect a Temporary Pool Enclosure during the process of constructing a Swimming Pool after receiving approval for the Inspector

8.2 A Temporary Pool Enclosure must meet the following standards:

- 8.2.1 be 1.22 metres (4 feet) high fence, or
- 8.2.2 be made of fencing material which is similar in visibility, height, and rigidity to a snow fence; and
- 8.2.3 be securely attached at any opening when the Swimming Pool is left unattended.

8.3 If a Pool Enclosure is damaged and requires replacement or repair while a Swimming Pool is filled with water, the Inspector may, upon a written request from the Owner, approve the use of a Temporary Pool Enclosure for a period of time, at the Town's discretion.

9. Special Provisions

9.1 Above-Ground Swimming Pools

9.1.1 A Swimming Pool that is above-ground requires a Pool Enclosure unless its vertical walls are 1.22 metres (4 feet) in height or more.

9.1.2. The ladder which provides access to a Swimming Pool that is above-ground must be enclosed by a Pool Enclosure.

9.2 Temporary Swimming Pools

A Temporary Swimming Pool may be reinstalled or refilled with water without an additional Pool Enclosure permit or the approval of the Inspector if there has been no alteration to the Pool Enclosure.

10. Administration

10.1 This By-Law shall come into effect in respect of all Swimming Pools as of the date of the publication of this By-Law.

10.1.1 an Owner of an existing Swimming Pool shall have until June 30, 2008 to meet all provisions of this By-Law.

10.1.2 an Owner of a Swimming Pool which is not in compliance with their Pool Enclosure permit or this By-Law will be required to remove water from the Swimming Pool.

10.2 (a) Any person who contravenes any provision of this By-Law is guilty of an offence, and is liable upon conviction to a fine of not more than five thousand (\$5,000.00) dollars exclusive of costs.

10.2(b) In addition to a fine, upon conviction under this By-Law, the Town shall be entitled to receive an Order from the Court requiring that the Owner remove all water from the Swimming Pool for as long as the contravention of the By-Law continues: or, an Order that the Town's Servants or Agents be authorized to enter onto the property of the Owner and remove water from the Owner's Swimming Pool, at the cost of the Owner, until the breach of this By-Law has been remedied.

10.3 In the event of any conflict between the provisions of this By-Law and any provision of any Fence by-law, as may be created, amended or replaced from time to time, the provisions of this By-Law shall prevail.

10.4 No conflict exists between the provisions of this By-Law and the provisions of any other by-law or approval if it is possible to comply with both by-laws by choosing an alternate type, design or location for a Pool Enclosure or Swimming Pool;

11. Repeal

All former Swimming Pool By-Laws of the Town of Hantsport are hereby repealed.

I, Jeffrey A. Lawrence, Chief Administrative Officer for the Town of Hantsport, do hereby certify that the foregoing is a true copy of a by-law duly passed at a duly called meeting of the Town Council of the Town of Hantsport and held on the day of

Given under the hand of the Chief Administrative Officer and under the corporate seal of the said Town this day of .
JEFFREY A. LAWRENCE Chief Administrative Officer

