

SWIMMING POOL BYLAW

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THE CORPORATION OF THE TOWNSHIP OF SCUGOG

BY-LAW NUMBER 56-07

BEING A BYLAW TO REGULATE, CONTROL AND OTHERWISE PERMIT PRIVATE SWIMMING POOLS AND REQUIREMENT TO HAVE ANY SWIMMING POOL PROPERLY ENCLOSED IN THE TOWNSHIP OF SCUGOG

WHEREAS Section 11(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “Act”), authorizes a lower-tier municipality to pass by-laws with respect to fences.

AND WHEREAS Section 15 (1)(c) of the of the Act authorizes a municipality to provide for a system of licences, permits, approvals or restrictions with respect to structures, including fences, including the authorization to impose conditions as a requirement for obtaining, continuing to hold or renewing a license, permit, approval or registration.

AND WHEREAS Section 446 of the Act authorizes a municipality to direct a matter or thing to be done under a by-law to be done at the person’s expense, and should the person fail to do such matter or thing as directed by the by-law, to recover the costs of doing the ting or matter by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SCUGOG enacts the following:

1. DEFINITIONS

In this By-Law:

Abandoned Swimming Pool means a Swimming Pool that is abandoned whether or not it contains water and whether or not it is being used, or a Swimming Pool by reason of its state of repair is incapable of safely being used and may include, but is not limited to, its structure, support structure, and containment liner, deck or state of its being maintained,

Commissioner of Planning and Public Works means, the Person appointed as the Commissioner of Public Works and Planning by Council and shall include a designated Person,

Council means the Council of the Corporation of the Township of Scugog,

Division Fence means a fence marking a boundary between adjoining parcels of land, not under common ownership,

Enclosure means a fence, wall or other structure, including doors and gates, surrounding a Swimming Pool to restrict access thereto,

Existing Grade means the elevation of an existing undisturbed ground surface,

Fence means a railing, wall, hedge, line of posts, shrubs, wire, gate, boards or other similar substances used to enclose or divide in whole or in part a yard or other land to establish a property boundary, but does not include a line of trees,

Hot Tub means any artificially enclosed body of water, located outside of a dwelling unit, consisting of water heating units and/or air jets used for bathing or other purposes and shall include a whirlpool or spa or similar device,

Inspector means a Building Inspector or an Officer appointed by the Township of Scugog, and shall include the Commissioner of Planning and Public works,

Officer means a Municipal Law Enforcement Officer appointed by Council,

Owner includes a lessee or tenant in possession of property on which a Swimming Pool is located,

Person means an individual, firm, corporation, association or partnership, but does not include the Township,

Portable Swimming Pool means, a Swimming Pool that by its design or intended use may be collapsed, removed or otherwise stored when not in use whose depth is not less than 0.61 meters (2 feet) and having a diameter of not less than 1.5 meters (5 feet),

Pool Permit means a Permit issued by the Township to erect, install or otherwise construct a Swimming Pool or Hot Tub on private lands,

Storm Water Management Facility means a body of water approved by the Township which is constructed or designed to contain storm water run-off from urban areas,

Swimming Pool means any privately owned outdoor swimming pool that contains or is intended to contain a volume of water with a depth of not less than 0.61 meters (2 feet) and a diameter of not less than 1.5 meters (5 feet) and is designed or intended for the use of swimming or bathing by humans, but does not include a naturally occurring body of water or an agricultural pond, whose banks gradually slope towards its center or deepest point, or a natural or man made pond which is situated in a properly supervised park, or a Storm Water Management Facility, or a Hot Tub,

Township means the Corporation of the Township of Scugog.

2. GENERAL PROVISIONS

- 1) No Person shall install, erect, construct or in other manner place a Swimming Pool except in accordance with the provisions of this By-Law.
- 2) The Owner of a Swimming Pool shall erect and maintain an Enclosure surrounding the entire Swimming Pool area to make such body of water not readily accessible and provides for a degree of safety acceptable to the Inspector.
- 3) No Person shall drain the water from a Swimming Pool in a manner that would permit or cause water to drain directly onto adjacent properties, including Township Lands.
- 4) Every electrical connection for a Swimming Pool or any of its components shall be inspected and installed by a qualified electrician who will certify that all electrical connections and components meet the standards and requirements as set out for electrical services under the Building Code Act.
- 5) No Swimming Pool, or any of its components including walkways, supporting structures, decking or concrete shall encroach upon any swale on any lot and shall meet any provision of the Township of Scugog Site Alteration By-Law 125-04, as amended or any of its successor By-Laws.
- 6) An Officer at any reasonable time may enter upon any lands where a Swimming Pool Permit has been applied for, that a Swimming Pool is installed or where any Swimming Pool is being installed for the purpose of inspection to ensure that compliance to any required By-Laws or other legislation is being met.
- 7) Where the installation of a Swimming Pool alters the Existing Grade of a property, the provisions of the Township of Scugog Site Alteration By-Law and any other applicable law must be followed.

3. PERMITS

- 1) Every Owner of a Swimming Pool is required to erect and maintain an Enclosure around such pool shall first obtain a Pool Permit.
- 2) Every Pool Permit application shall be completed in full and returned to the Township of Scugog before a Permit will be issued and such application shall be accompanied by:
 - a) applicable fee as set out in the Township of Scugog Fees and Charges By-Law;
 - b) written approval from the Durham Region Health Unit (if applicable);

- c) site plan drawing containing the following information:
 - i) drawing scale;
 - ii) north directional arrow;
 - iii) lot lines and dimensions;
 - iv) existing and proposed construction dimensions;
 - v) setbacks and lot lines;
 - vi) any proposed changes to grade;
 - vii) type of Swimming Pool to be installed;
 - viii) safety measures to be taken during all aspects of construction.

4. ENCLOSURES

- 1) Where any Fence is erected to enclose a Swimming Pool the following conditions shall apply:
 - (a) all Pool Enclosures shall be constructed of wood, metal or chain link fencing.
 - (b) all Pool Enclosures, or portions thereof, constructed of wood shall comply with Tables 4.1.a. and 4.1.b.
 - (c) all Pool Enclosures, or portions thereof, constructed of metal shall comply with Tables 4.1.a. and 4.1.c.
 - (d) all Pool Enclosures, or portions thereof, constructed of chain link shall comply with Tables 4.1.a. and 4.1.d.
 - (e) no Fence around a Swimming Pool shall be closer than 1.2 meters (4 feet) from the waters edge;
 - (f) no Fence around a Swimming Pool shall be less than 1.5 meters (5 feet) in height, not including post extensions above the fencing material;
 - (g) where a Fence is constructed using any horizontal rail to hold components, such rails shall not be exposed to the exterior side of the Enclosure such rails shall be maintained so as not to facilitate climbing over the Enclosure, in the opinion of the Inspector or Officer;
 - (h) no Fence shall be constructed in such a manner so as to have any of its components protrude out or allow any foot hold to facilitate climbing if such foot hold is less than 1.5 meters (5 feet) from the top of any Fence or Enclosure, not including post extensions, in the opinion of the Inspector or Officer;
 - (i) no Fence shall be constructed within 1 meter (3 feet) of any object that might assist in climbing over the Enclosure, in the opinion of the Inspector or Officer;

- (j) a building's wall may be used as a portion of the Enclosure Fence, provided that any door, window or other entrance to the building, within the perimeter of the Fence or Enclosure is located a minimum of 1.5 meters (5 feet) from waters edge;
 - (k) any gate located in a Fence or Enclosure shall meet the requirements of the Fence and as well shall be equipped with a self closing system and shall be kept locked when not in use;
 - (l) any latch to open such gate shall be placed as high on the gate or Fence as possible so as to make opening the gate as difficult as possible;
 - (m) any Division Fence meeting the requirements of this By-Law shall be deemed sufficient as a Fence or Enclosure around a pool area, provided the Division Fence is continually maintained and kept within the requirements of this By-Law, no matter how any Fence becomes non compliant from time to time and the responsibility of this maintenance shall fall upon the Owner of such pool the Fence encloses.
- 2) Where the walls of a Swimming Pool extend to a height of no less than 1.5 meters (5 feet) above grade and such walls are of smooth construction and no component of such pool or other object that could assist in climbing is located closer than 1 meter (3 feet) from the wall of the pool, the Swimming Pool walls will be considered to be an acceptable Enclosure and a fence is not required.

5. ABANDONED SWIMMING POOLS

Where a Swimming Pool is determined by an Inspector to be an Abandoned Swimming Pool, the Inspector may cause the Owner of the Swimming Pool to make what ever repairs or other requirements or to remove the Swimming Pool from the property.

6. PORTABLE SWIMMING POOLS

Where a Pool Permit has been obtained for the installation of a Portable Swimming Pool and all other provisions of this By-Law have been met and the Swimming Pool is removed for storage, a second Pool Permit shall not be required to reinstall the same Portable Swimming Pool provided that the provisions set forth in the original Pool Permit and site plan have not been changed or altered, including size of Swimming Pool, location of Swimming Pool or any other detail that deviates from the original Pool Permit information.

7. LOCATION OF SWIMMING POOLS

- 1) No Swimming Pool shall be installed, erected or otherwise constructed where such Swimming Pool can not meet the minimum set back requirements for accessory use buildings pursuant to the Township of Scugog Zoning By-Law 75-80, as amended or any of its successor By-Laws.

- 2) No Swimming Pool shall be located at a distance less than 1.5 meters (5 feet) from the principle building on the same lot.
- 3) Swimming Pools shall be located in conformance with Section 5.1 (k) of the Zoning By-Law 75-80, as amended or any of it's successor By-Laws.

8. LADDERS AND SAFETY DEVICES

- 1) The Owner of a Swimming Pool shall remove all ladders or other devices designed or intended to assist in the entering or exiting of a Swimming Pool while not in use and shall store such ladders or devices in a location not readily accessible and provides for a degree of safety acceptable to the Inspector.
- 2) The Owner of a Swimming Pool using a ladder designed with a safety device that prevents use such as a locking mechanism or cover, shall, while not in use, utilize such safety device.

9. HOT TUBS

- 1) Every Person installing a Hot Tub shall first obtain a Pool Permit in accordance with Section 3 of this By-law.
- 2) Every electrical connection for a Hot Tub or any of its components shall be inspected and installed by a qualified electrician who will certify that all electrical connections and components meet the standards and requirements as set out for electrical services under the Building Code Act.
- 3) Every Owner of a Hot Tub shall cover the Hot Tub with a solid cover that can withstand 90.7 kgs (200 pounds) of pressure and shall use a lock to ensure the cover can not be removed.

10. ADMINISTRATION AND ENFORCEMENT

- 1) This By-Law shall be administered by the Commissioner of Planning and Public Works and the Municipal Law Enforcement Officer.
- 2) This By-Law shall be enforced by the Commissioner of Planning and Public Works, a Municipal Law Enforcement Officer or a Building Inspector.

11. SHORT TITLE

This By-Law shall be known as the Swimming Pool By-Law.

12. SEVERABILITY

If a court of competent jurisdiction should declare any section of this By-Law, or part thereof, to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law as having being invalid and is hereby declared that the remainder of the By-Law shall be valid and shall remain in force.

13. REPEAL OF BYLAW

By-Law 60-74 and any of its amendments are hereby repealed.

14. PENALTY

Every Person who contravenes any provision of this By-Law is guilty of an offence and upon conviction thereof is liable to a fine in the amount provided by the Building Code Act, S.O. 1992 c.23, as amended or any of its successor legislation in substitution thereof.

15. EFFECTIVE DATE

This By-Law shall come into effect on the day of its passing.

Read a First, Second and Third time and finally passed this 23rd day of April, 2007

(Signed) Marilyn Pearce
MAYOR, Marilyn Pearce

(Signed) Kim Coates
CLERK, Kim Coates

TABLE 4.1.a.**General Provisions for Pool Enclosures**

Provisions	All Properties
i. Minimum Height of Fences and Gates	1.5 m (5 ft.)
ii. Maximum Clearance Between Bottom of Fence and Grade	100 mm (4in.)
iii. Minimum distance to climbable condition adjacent to fencing	1 m (3 ft.)
iv. Minimum distance from principle Building on same lot	1.5 m (5 ft.)

TABLE 4.1.b.**Wood Fence Construction for Pool Enclosures**

Provisions	All Properties
i. Horizontal Rail Minimum size	38mm (1-1/2 in.) x 89 mm (3-1/2 in.)
ii. If Minimum vertical spacing between horizontal railings	0.9 m (35.4 in.)
iii. Then Maximum spacing between vertical boards	100 mm (4 in.)
iv. If Minimum vertical spacing between horizontal railings	Less than 0.9 m (35.4 in.)
v. Then Maximum spacing between vertical boards	38 mm (1-1/2 in.)
vi. Vertical board minimum size	19 mm (3/4 in.) x 89 mm (3-1/2 in.)
vii. Fence post maximum spacing	2.4 m (8 ft.)
viii. Minimum size of fence posts	89 mm (3-1/2 in.) x 89 mm (3-1/2 in.)
ix. Minimum depth below grade of imbedded fence posts	1.2 m (4 ft.)

TABLE 4.1.c.**Metal and Wrought Iron Fence Construction for Pool Enclosures**

Provisions	All Properties
i. Minimum vertical spacing between horizontal railing	0.9 m (35.4 in.)
ii. Vertical railing maximum spacing	100 mm (4 in.)
iii. Minimum depth below grade of imbedded posts	1.2 m (4 ft.)

TABLE 4.1.d.

Chain Link Fence Construction for Pool Enclosures

Provisions	All Properties for Posts	All Properties for Posts
i. Minimum vertical spacing between horizontal railings	0.9 m (35.4 in)	0.9 m (35.4 in)
ii. Maximum chain link mesh size for 1.5 m (5 ft.) fencing	38mm (1-1/2 in)	38mm (1-1/2 in)
iii. Maximum chain link mesh size for 1.8 m (6 ft) fencing	38 mm (1-1/2 in) Or 50 mm (2 in)	38 mm (1-1/2 in) Or 50 mm (2 in)
iv. Minimum diameter/gauge of mesh including vinyl covering	2.6 mm diameter (no. 11 gauge) or 2 mm diameter (no. 14 gauge) with vinyl covering forming a total combined thickness of 2.6 mm (no. 11 gauge)	2.6 mm diameter (no. 11 gauge) or 2 mm diameter (no. 14 gauge) with vinyl covering forming a total combined thickness of 2.6 mm (no. 11 gauge)
v. Minimum diameter gate and terminal posts	47.5 mm (1-7/8 in)	47.5 mm (1-7/8 in)
vi. Minimum depth below grade of imbedded fence posts	The steel post will be a minimum of 0.76 cm (2 ft. 6 in.) imbedded in a concrete footing which has a diameter of 20.32 cm (8 in) and a depth of 1.2 m (4 ft). Note: The top of the concrete footing may be below grade level 10.175 cm to 20.32 cm (4 in. to 8 in.)	The steel post will be a minimum of 0.76 cm (2 ft. 6 in.) imbedded in a concrete footing which has a diameter of 20.32 cm (8 in) and a depth of 1.2 m (4 ft). Note: The top of the concrete footing may be below grade level 10.175 cm to 20.32 cm (4 in. to 8 in.)
vii. Minimum diameter for intermediate posts	38 mm (1-1/2 in)	47.5 mm (1-7/8 in)
viii. Minimum diameter of top rail	32 mm (1-1/4 in)	41.275 mm (1-5/8 in)
ix. Minimum diameter of bottom wire	3.7 mm (No. 9 gauge)	3.7 mm (No. 9 gauge)
x. Minimum Diameter of gate frame pipe	32 mm (1-1/4 in)	32 mm (1-1/4 in)