



BY-LAW NO. 2009-0028

A by-law to regulate Pool Enclosures within the Town of Halton Hills.

WHEREAS Subsections 8(2) and (3), of the *Municipal Act, 2001*, S.O. 2001, c.25 authorize a municipality to regulate or prohibit matters pertaining to fences, to require Persons to do things respecting fences, to provide for a system of licenses and to impose conditions as requirements of obtaining, continuing to hold or renewing the license;

AND WHEREAS Subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes a municipality to regulate matters related to health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, authorizes a municipality to pass by-laws respecting fences;

AND WHEREAS Sections 23.1, 23.2, 23.3, and 23.5 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorize a municipality to delegate certain powers and duties;

AND WHEREAS Section 425 of the *Municipal Act, 2001* S.O. 2001, c.25 authorizes a municipality to provide offences for a contravention of a by-law;

AND WHEREAS Section 436 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides a municipality may pass by-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a by-law, direction, order, or condition of license.

AND WHEREAS Sections 444 and 445 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that where a municipality is satisfied of a contravention of a by-law that the municipality may make an order to discontinue or correct the contravention of the by-law;

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that where a municipality has the authority to direct or require by by-law or otherwise a Person to do a matter or thing, the municipality may also provide, that in default of it being done by the person directed or required to do it, such matter or thing may be done at the person's expense and that the municipality may recover the cost of doing such thing or matter by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS the Council for the Corporation of the Town of Halton Hills deems a Pool Enclosure as a necessary safety measure to prevent small children, and others, from entering the pool area without supervision.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF HALTON HILLS ENACTS AS FOLLOWS:

PART 1 – SHORT TITLE

1.1 This by-law may be referred to as the “*Pool Enclosure By-law*”.

PART 2 – DEFINITIONS

- 2.1 **“CHIEF BUILDING OFFICIAL”** means the person approved as Chief Building Official of the Corporation of the Town of Halton Hills or their designate.
- 2.2 **“DIRECTOR OF INFRASTRUCTURE SERVICES”** means the person appointed by Council for the Town of Halton Hills as Director of Infrastructure Services or their designate.
- 2.3 **“DIRECTOR OF RECREATION & PARKS DEPARTMENT”** means the person appointed by the Council for the Town of Halton Hills as the Director of Recreation & Parks Department or their designate.
- 2.4 **“EFFECTIVE GROUND LEVEL”** at any location means the highest level of ground within 0.90 metres (3 feet) measured horizontally in any direction from the location under consideration.
- 2.5 **“GUARD”** means a protective barrier, with or without openings through it, that is around a platform, deck or similar structure in order to prevent accidental falls from one level to another.
- 2.6 **“HOT TUB”** means a hot tub, jacuzzi, whirlpool, or spa.
- 2.7 **“INFLATABLE POOL”** means a Pool, as defined in this by-law, consisting of an air-supported structure which is capable of containing water with a depth in excess of 0.61m (2 feet) at any point.
- 2.8 **“OFFICER”** means a municipal law enforcement Officer or building inspector appointed by by-law by the Town of Halton Hills.
- 2.9 **“PERMIT”** or **“POOL ENCLOSURE PERMIT”** means a Permit issued under this by-law.
- 2.10 **“PERSON”** means the registered owner of the property and any lessee, tenant, mortgagee in possession, or person occupying or in charge of the property.
- 2.11 **“POOL”** means:
- (a) a body of water, including a Temporary Pool or Hot Tub which,
 - (i) is located outdoors on private property,
 - (ii) is wholly or partially contained by artificial means,
 - (iii) is capable of holding water in excess of 61 centimetres (2 feet) in depth at any one point,
 - (iv) has an open exposed water surface of at least 1 square metre (10.76 square feet);
- 2.12 **“POOL ENCLOSURE”** means a fence, wall or other structure, or combination thereof, including any door or gate surrounding a Pool and restricting access thereto.
- 2.13 **“SELF-CLOSING DEVICE”** means a mechanical device or spring that, when released, returns a Pool Enclosure gate to its closed position after it has been opened.
- 2.14 **“SELF-LATCHING DEVICE”** means a mechanical device or latch which is engaged and secures the gate to its closed position each time the gate is closed, which will not allow the gate to be re-opened by pushing or pulling, and which will ensure that the Pool Enclosure gate remains closed until unlatched by either lifting or turning the device itself directly or by a key.

- 2.15 “**TEMPORARY POOL**” means an inflatable Pool or other Pool which is designed to be removed periodically on a seasonal or more frequent temporary basis.
- 2.16 “**TOWN**” means The Corporation of the Town of Halton Hills.

PART 3 – GENERAL PROVISIONS

ADMINISTRATION AND DELEGATION

- 3.1 This by-law shall be administered and enforced by the Chief Building Official.
- 3.2 Every application for a Pool Enclosure Permit shall be in the form specified by the Chief Building Official.
- 3.3 The Chief Building Official may approve an alternate type of temporary fencing to that prescribed in Parts 5 and 10 of this by-law.
- 3.4 The Chief Building Official shall impose a maximum time limit for a temporary Pool Enclosure where the Pool Enclosure is damaged and requires replacement or repair.
- 3.5 The Chief Building Official shall determine the appropriate application fee for a Pool Enclosure Permit as set out in the Town of Halton Hills *Finance User Fee By-law*, as amended from time to time.

APPLICATION OF BY-LAW

- 3.6 This by-law shall apply to all Pool Enclosures constructed, existing or replaced, within the Town of Halton Hills.
- 3.7 In the event of any conflict between the provisions of this by-law and any provision of Town of Halton Hills *Fence By-law 2002-0060*, as may be amended or replaced from time to time, the provisions of this by-law shall prevail.
- 3.8 For the purpose of this by-law:
- (a) words in the singular shall be deemed to include the plural and words in the plural shall be deemed to include the singular, and
 - (b) words beginning with a capital, other than at the beginning of a sentence, indicate that there is either a definition for the word contained herein, or that it is a proper noun.
- 3.9 The requirements in this by-law are set out in metric measurements and any imperial measurements in this by-law are provided for convenience only.

EXISTING POOL ENCLOSURES

- 3.10 The provisions of this by-law shall not prevent the use of an existing Pool Enclosure if that Pool Enclosure was lawfully constructed prior to the effective date of this by-law and has been maintained continuously thereafter in accordance with the regulations in effect at that time.
- 3.11 Where an existing Pool Enclosure is replaced, the replacement Pool Enclosure shall be constructed in accordance with this by-law.
- 3.12 Where 7.31 metres (24 feet) or more of an existing Pool Enclosure requires replacing, the replacement shall be constructed in accordance with this by-law.
- 3.13 Where an existing Pool Enclosure, which marks the boundary between abutting properties, has enclosed a pool in accordance with the regulations that existed prior to the effective date of this by-law, and has been maintained continuously in

accordance with those regulations, the shared portion of the Pool Enclosure between the abutting properties may form part of a new Pool Enclosure on the abutting property and shall be deemed to be in conformity with this by-law. All other portions of the new Pool Enclosure that enclose the newly constructed pool on the abutting property shall meet the standards set out in this by-law.

PART 4 – POWERS OF ENTRY AND INSPECTION

- 4.1 An Officer may enter upon land at any reasonable time for the purpose of carrying out an inspection:
- (a) to determine if there is a contravention of this by-law;
 - (b) to issue and post a municipal order;
 - (c) pursuant to the issuance of a Pool Enclosure Permit;
 - (d) to take tests, samples or photographs.
- 4.2 For the purposes of an inspection under Section 4.1 the Officer may:
- (a) require the production of documents or things relevant to the inspection;
 - (b) remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection;
 - (d) enter onto the property with employees or agents of the municipality for the purpose of enforcing a municipal order that has been issued.
- 4.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty pursuant to this by-law.

PART 5 – PROHIBITIONS

- 5.1 No person shall construct or install a Pool or cause a Pool to be constructed or installed or commence the construction or installation of a Pool without first obtaining a Pool Enclosure Permit from the Chief Building Official.
- 5.2 Subject to the provisions of Part 10 of this by-law, no person shall construct or install a Pool or cause a Pool to be constructed or installed which is not completely enclosed by a Pool Enclosure constructed and installed in accordance with this by-law.
- 5.3 No person shall fill a Pool with water or cause a Pool to be filled with water or allow water to remain in a Pool unless,
- (i) the Pool is a newly constructed Pool and the Pool Enclosure has been inspected and approved by the Town,
 - (ii) the Pool is enclosed by a Pool Enclosure, other than an approved temporary Pool Enclosure meeting the requirements of Section 10.1 of this by-law,
 - (iii) temporary fencing approved in writing by the Chief Building Official has been erected where a Pool Enclosure requires replacement or repair.
- 5.4 No person shall remove any part of a Pool Enclosure where the Pool is capable of holding more than 0.61 metres (2 feet) of water.
- 5.5 No person shall alter or replace a Pool Enclosure without having first obtained a Permit from the Chief Building Official.

- 5.6 Every Person shall ensure that:
- (a) all gates forming part of the Pool Enclosure meet the standards of this by-law;
 - (b) all entranceways to a Pool Enclosure through a wall of a building meet the standards of this by-law;
 - (c) all gates forming part of a Pool Enclosure are locked when the Pool Enclosure area is not in active use; and
 - (d) the lockable lid of any Hot Tub is closed and locked when the Hot Tub area is not in active use unless the Hot Tub is within a locked Pool Enclosure meeting the requirements of this by-law.
- 5.7 No person shall place, pile, attach or lean any object or material against or near a Pool Enclosure so as to facilitate the climbing of the Pool Enclosure, or diminish the structural integrity of a Pool Enclosure or render the Pool Enclosure to be in contravention of this by-law.
- 5.8 No person shall erect a fence within 0.61 m (2 feet) of an existing Pool Enclosure that does not comply with the requirements of this by-law.
- 5.9 All Pool Enclosures including any gates shall be maintained in good repair at all times.

PART 6 – APPLICATIONS FOR PERMITS

- 6.1 Every application for a Pool Enclosure Permit shall be accompanied by:
- (a) 2 sets of plans showing the location of the Pool, all accessory equipment and proposed landscape features in relation to property lines, buildings (including decks) and sheds and any easements;
 - (b) complete details of the proposed Pool Enclosure, including the location and type of proposed fence and gate;
 - (c) complete details, including photographs, of any existing fence proposed to be part of the Pool Enclosure;
 - (d) the Permit fee specified in Town of Halton Hills *Finance User Fee By-law*, as amended from time to time;
 - (e) where applicable, written approvals from the Director of Recreation & Parks Department and the Director of Infrastructure Services for a proposed access route from any Town-owned property or right-of-way, and such approval shall require the payment of an amount determined by the Town to be an appropriate damage deposit to ensure that the Town-owned property or right-of-way is restored to the condition that existed prior to the construction; and
 - (f) written approval of the developer or owner of the subdivision if the proposed Pool is within an unassumed plan of subdivision.
- 6.2 The Chief Building Official shall issue a Permit for a Pool Enclosure where the plans submitted comply with the requirements of this by-law and all applicable regulations and by-laws or approvals.

PART 7 – REVOCATION OF A PERMIT

- 7.1 A Pool Permit may be revoked by the Chief Building Official:
- (a) where information supplied on the Permit application was based on mistaken, false or incorrect information.
 - (b) where a Person has not completed construction within a period of 12 months from the issue date of the Permit.

(c) if it was issued in error.

7.2 Where a Pool Permit is revoked by the Chief Building Official or withdrawn by the applicant, the applicant is not entitled to a refund.

PART 8 – STANDARDS FOR POOL ENCLOSURES

8.1 A Pool shall be enclosed by a Pool Enclosure that meets the following standards:

(a) **Height:** A Pool Enclosure shall extend from the ground to a height of not less than 1.52m (5 feet), measured from the Effective Ground Level on the exterior side of the Pool Enclosure;

(b) **Opening and Materials:**

(i) except as provided in (ii) and (iii), a Pool Enclosure shall not have any openings that would allow the passage of a spherical object having a diameter greater than 38mm (1.5 inches);

(ii) for a Pool Enclosure that is not a chain link fence or wood lattice, the openings between the vertical members are permitted to be greater than 38 millimetres (1.5 inches) but less than 10 centimetres (4 inches) where the distance between the top and bottom rails is greater than 1.22 metres (4 feet);

(iii) for a Pool Enclosure which is a chain link fence, where the Pool Enclosure is at least 1.83m (6 feet) in height, the openings in the Pool Enclosure are permitted to be greater than 38mm (1.5 inches) but not greater than that which would allow the passage of a spherical object having a diameter of 50mm (2 inches);

(iv) for a Pool Enclosure which is comprised of wood lattice, the wood shall be at least 13mm (0.5 inches) in thickness, with openings of less than 38mm (1.5 inches).

(c) **Ground Clearance:** the space at any point under the Pool Enclosure must not exceed 50mm (2 inches) and the ground beneath the enclosure cannot be of loose gravel or other material which can be easily removed so as to afford access under the Pool Enclosure.

(d) **Location:** subject to paragraph 8.1(e) a Pool Enclosure shall be located:

(i) not less than 0.61m (2 feet) from any fence that does not meet the requirements of this by-law;

(ii) a minimum distance of 1.22 metres (4 feet) between the water's edge of the Pool and the Pool Enclosure on at least 80% of the Pool's perimeter to provide a level, clear and unobstructed area for rescue operations;

(iii) where the wall of a building is used as part of the Pool Enclosure, the wall shall be a minimum of 1.22 metres (4 feet) from the water's edge of the Pool excluding a Hot Tub.

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

(f) No part of a Pool Enclosure shall contain barbed wire, electrical wire, sharp objects or materials, or any other objects or materials that would create a danger to the safety of any persons.

PART 9 – GATES AND OTHER ACCESS POINTS

Gates

- 9.1 Every gate forming part of a Pool Enclosure shall be:
- (a) constructed in accordance with the standards prescribed in Part 8 of this by-law;
 - (b) supported on substantial hinges, capable of supporting 90.72 kg (200 lbs);
 - (c) equipped with a Self-Closing Device;
 - (d) equipped with a Self-Latching Device that is at least 1.22m (4 feet) above the established grade; and
 - (e) equipped with a lock that must be locked when there is no responsible person in attendance in the Pool area.
- 9.2 Where the gate to the Pool Enclosure is a double gate access, made up of two gates at the same location, one of the two gates shall:
- (a) have a Self-Closing Device and Self-Latching Device; and
 - (b) the other gate shall have a device permanently affixed to the ground that prevents access through this gate without lifting or removing this device.

Entranceways through buildings

- 9.3 Where a wall or portion thereof of any building located on the same property as the Pool forms part of the Pool Enclosure, no entranceway to the enclosed Pool area is permitted through said wall, unless:
- (a) the entranceway doors are equipped with a bolt or a chain latch at a minimum height of 1.83m (6 feet) above the inside floor level;
 - (b) the entranceway is located no closer than 1.5 m (5 feet) from the edge of the water and contains no stairs or steps within; and
 - (c) the entrance bolt or chain latch is maintained in good repair.
- 9.4 The bolt and chain latch required in Section 9.3(a) shall be engaged when there is no responsible person in attendance in the Pool area.
- 9.5 No window in the wall of any building which is less than 1.5 m (5 feet) above floor level shall be capable of being opened more than 10cm (4 inches) unless a guard is permanently installed on the window to prevent the passage of a spherical object having a diameter of more than 10cm (4 inches) through the window.

PART 10 – TEMPORARY FENCE DURING CONSTRUCTION

- 10.1 Every Person shall ensure that temporary fencing meeting the requirements of Part 10 of this by-law is in place and maintained during all phases of construction of the Pool so that unauthorized access to the site is prevented.
- 10.2 Temporary fencing :
- (a) shall be a minimum of 1.22m (4 feet) in height,
 - (b) shall be erected in a good workmanlike manner,
 - (c) that is a snow fence shall consist of steel t-posts that are spaced at a maximum of 1.2m (3.94 feet) measuring from centre of post to centre of post, and embedded at least 0.60cm (2 feet) into the ground, and

- (d) that is a snow fence shall consist of 38mm (1.5 inch) mesh fencing that is horizontally secured at the top and the bottom by an eleven-gauge cable threaded through the mesh, fastened to the eleven-gauge cable every 20cm (8 inches), and securely attached to each post along its height between the top and bottom cables, and
- (e) that is not a snow fence requires the written approval of the Chief Building Official.

10.3 Any opening in the temporary fencing shall be closed and secured while construction is not ongoing.

10.4 Any authorization to erect temporary fencing is granted provided that the construction of the Pool Enclosure is completed quickly and efficiently.

PART 11 – SPECIAL PROVISIONS AND PARTIAL EXEMPTIONS

Hot Tubs

11.1 Notwithstanding Part 5 of this by-law, no Pool Enclosure is required for a Hot Tub equipped with a substantial cover capable of holding 90.72 kg (200 lbs) which is locked to prevent access when the Hot Tub is not in use.

Guards and Handrails Required for Pools and Hot Tubs

11.2 Any Pool surrounded by a platform, deck or similar structure that is more than 0.61 metres (2 feet) in height shall have a Guard.

11.3 A Guard shall:

- (a) not have openings more than 10 centimetres (4 inches) in diameter.
- (b) be a minimum of 90 centimeters (2 feet 11 inches) high where the walking surface served by the Guard is not more than 1.80 metres (5 feet 11 inches) above the finished ground level; or
- (c) be a minimum of 1.07 metres (3 feet 7 inches) high where the walking surface served by the Guard is 1.80 metres (5 feet 11 inches) or more above the finished ground level.

11.4 A stair containing more than 3 risers that accesses a platform, deck or similar structure shall be equipped with a handrail that is:

- (a) continuous for the height of the stair; and
- (b) of a height of not less than 80 centimetres (2 feet 7 inches) and not more than 96.5 centimetres (3 feet 2 inches).

11.5 Where the area of a platform, deck or similar structure is greater than 10 square metres (108 square feet) a Building Permit is required for the construction of the platform, deck or similar structure and Guard.

PART 12 – PENALTY

12.1 Every Person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.00 and not less than \$400.00, exclusive of court costs.

12.2 Where an Officer is satisfied that a contravention of this by-law has occurred, the Officer may make an order requiring the Person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.

- 12.3 An order issued under Section 12.2 shall set out,
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the work to be done and the date by which the work must be done.

Remedial action

- 12.4 In default of the work being done by the Person directed or required to do it, the matter or thing shall be done at the Person's expense.

Entry upon land

- 12.5 For the purpose of Section 12.4, the Officer and employees or agents of the municipality may enter upon land at any reasonable time.

Recovery of costs

- 12.6 The Town may recover the costs of doing a matter or thing under Section 12.4 from the Person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

PART 13 – SEVERABILITY

- 13.1 If a court of competent jurisdiction should declare any section or a part of this by-law to be invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

PART 14 – TRANSITIONAL RULES

After the date of the passing of this by-law, all swimming pool enclosure permits issued by the Chief Building Official for the Town of Halton Hills or their designate pursuant to Town of Halton Hills By-law 97-035, as amended, remains valid for a period not to exceed 12 months and the requirements, refusal and revocation for its issue, as it read on that day, continues to apply to the permit.

PART 15 – REPEAL

Except for the purpose as set out in Part 14 of this by-law, By-law 97-035, as amended, is hereby repealed.

BY-LAW read and passed by the Council for the Town of Halton Hills this 27th day of April, 2009.

MAYOR – Rick Bonnette

TOWN CLERK – Debbie Edmonds

