

The Corporation of the Township of Elizabethtown-Kitley

By-law Number 01-14

A BY-LAW TO REGULATE OUTDOOR SWIMMING POOLS

Whereas the Municipal Act, Chapter M. 45, R.S.O. 1990, Section 210(30), authorizes the passing of a by-law requiring the owners of privately owned outdoor swimming pools to obtain a permit for the installation of pools and to erect and to maintain fences and gates around such pools;

And Whereas the Corporation of the Township of Elizabethtown-Kitley has deemed it desirable to enact such a by-law;

Now Therefore the Council of the Corporation of the Township of Elizabethtown-Kitley enacts as follows:

1.00 DEFINITIONS

- 1) "ENCLOSURE" means a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto;
- 2) "OWNER" means a person in possession of the property and includes a lessee or tenant in possession of property on which a swimming pool is located;
- 3) "OUTDOOR SWIMMING POOL" means any in ground and/or above ground privately owned outdoor body of water contained by artificial means in which the depth of the water at any point can exceed 0.45 m (18 inches)(1.5 feet) and is capable of being used for swimming, wading, diving or bathing.

2.00 REGULATIONS

2.01 General

- a) No person shall erect, construct or excavate for an outdoor private swimming pool unless and until the required permit has been issued by the Chief Building Official.
- b) A temporary fence shall be erected during construction of the pool. It is the applicant's responsibility to ensure safety during construction.
- c) No person shall place water in an outdoor swimming pool or allow water to remain therein or allow water to remain in an excavation unless the enclosure prescribed by this by-law has been erected.
- d) Every outdoor swimming pool shall be secured against entry of the public other than tenants or their guests and no invitation to the public shall be extended.
- e) The owner of every outdoor swimming pool shall ensure that an enclosure around such a pool is constructed and maintained in accordance with the provisions of this by-law.

2.02 Enclosure

- a) Every enclosure, or part thereof, shall:
 - i) be a minimum of 1.2 m (4 feet) in height measured on the outside of the enclosure, the lower extremity being not more than 5 cm (2 inches) above ground level;
 - ii) be of close-boarded, chain link, metal picket or other approved design, to reasonably deter children from climbing it to gain access to the enclosed area;
 - iii) be rigidly construct to prevent entry/access to the enclosed area;

... 2/

2.02 Enclosure (Continued) *Every enclosure, or part thereof, shall:*

- iv) have no attachments or bracing on the exterior facing of the fence within a height of 1.2 m (4 feet) of the grade level which might facilitate climbing;
 - v) have no barbed wire or similar dangerous characteristics and shall have no device for projecting an electric current;
 - vi) be located no closer than 1 m (3 feet) from the edge of any outdoor pool; *and*
 - vii) only have entry or access as permitted and described in this by-law.
- b) Where an outdoor swimming pool is erected above grade such pool walls shall be deemed suitable enclosure provided:
- i) the pool walls project a minimum of 1.2 m (4 feet) above grade;
 - ii) there are no attachments or bracing on the exterior facing of the pool which may facilitate climbing and the wall of the pool and will provide a degree of security equivalent to enclosure requirements of this by-law;
 - iii) the grade of the ground adjacent to the outside wall of the pool, for a distance of 1.22 m (4 ft.) therefrom is at least 1.22 m (4 ft.) below the top of the pool walls; *and*
 - iv) any ladder or gate or other means of access to the pool is designed to be locked in a like manner as is required for gates in this bylaw.
- c) Every gate erected in a fence/enclosure around an outdoor swimming pool shall:
- i) be of construction and height equivalent to that required for the enclosure;
 - ii) be supported by substantial hinges; *and*
 - iii) be self-closing and equipped with a self-latching device placed at the top, on the inside, a minimum distance of 1 m (3 feet) above grade.
- d) A wall of a building or deck may form part of an enclosure provided it meets the requirements for enclosures and provide a degree of security equivalent to the enclosure requirements of this by-law. All doors located in a wall of the building which forms part of an enclosure, other than doors located in a dwelling unit, shall be equipped with self-closing, self-latching devices located not less than 1 m (3 feet) above the bottom of the door and comply with Sections 2.02 c) i) and ii) and all other sections of this by-law.
- e) A swimming pool and associated decks, pumps, etc. shall be located in compliance with the provisions of all by-laws for the Township of Elizabethtown-Kitley, including the Zoning By-law, and shall comply with Part 8 requirements of the Ontario Building Code. i.e. 1.5 m (5 feet) from a septic tank and 5 m (17 feet) from a leaching bed.
- g) Accessory buildings, accessory structures and pool equipment, including pumps and filters, that could be used to assist in gaining access to the pool shall be located a minimum of 1 m (3 feet) from an approved enclosure to reduce access/climbing potential, unless they are located under a deck which has been enclosed in accordance with the provisions of this by-law.
- h) The Owner of every privately-owned outdoor swimming pool shall ensure that every gate, ladder or door providing access to swimming pool shall be kept locked at all times when they are not present and supervising the pool.

3.00 ISSUANCE OF PERMITS

- a) To obtain a permit for an outdoor swimming pool, the applicant must:
- i) complete the Application for Swimming Pool Permit required by the municipality;
 - ii) pay a fee, as prescribed from time to time in the Building Permit Fee By-law;
 - iii) submit a plot plan describing the location of buildings, swimming pool, pump, filter, enclosure, decks, distances to lot lines, septic system, etc.; *and*
 - iv) submit details of pool, gate(s) and fence/enclosure.
- b) The Chief Building Official may refuse to grant a permit for a swimming pool or for a fence/enclosure around an outdoor swimming pool if the plans are contrary to the provisions this or any by-law of the Township of Elizabethtown-Kitley or if the plans are contrary any requirements of the Ontario Building Code.

4.00 PENALTIES

Any person who contravenes any provision of this by-law is guilty of an offence and shall be liable to a fine of up to one thousand (\$1,000.00) dollars, exclusive of costs, for each and every offence.

5.00 OTHER

- a) The provisions of this by-law shall apply to all outdoor swimming pools constructed or in construction subsequent to the date hereof, and to all such pools which, as of the date of final passing of this by-law, fail to meet the requirements for such pools as set forth in this by-law.
- b) That By-law No. 99-04 of the former Township of Elizabethtown, and By-law B99-06 of the former Township of Kitley, and all by-laws of both former Townships, or sections thereof, which are inconsistent herewith, are hereby repealed.

Read a First and Second time this 23rd day of January, 2001.

Read a Third time and finally **Passed** this 13th day of February, 2001.

Signed: Reeve Dave Mack
Signed: Clerk Yvonne L. Robert