



BY-LAW NO. 2010-090

**"A BY-LAW TO REGULATE PRIVATELY OWNED SWIMMING
POOL FENCES WITHIN THE CITY OF OWEN SOUND"**

Originally Passed and Enacted May 10, 2010

Amended By By-law:	Passed On:
2011-110	June 20, 2011

Consolidated Version

Revised and Verified June 24, 2013

Consolidated for Convenience Only

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracies of these by-laws, they are not official versions or legal documents. The original by-laws should be consulted for all interpretations and applications on this subject. For more information or original signed copies of by-laws please contact the City Clerk's Department.

BY-LAW NO. 2010-090

THE CORPORATION OF THE CITY OF OWEN SOUND

**A BY-LAW TO REGULATE PRIVATELY OWNED
SWIMMING POOL FENCES WITHIN THE CITY OF
OWEN SOUND**

WHEREAS section 130 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes a municipality to regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS section 11(1)7 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws respecting matters relating to structures, including fences;

AND WHEREAS the Council of the City of Owen Sound deems it desirable to enact such a By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

SECTION 1. – SHORT TITLE

1.1 This By-law may be cited as the City of Owen Sound Pool Fence By-law.

SECTION 2. – DEFINITIONS

- 2.1 **Barrier** means a fence, privacy screen, sound barrier, retaining wall or safety barrier.
- 2.2 **Chief Building Official** means the Chief Building Official appointed by the Council of the Corporation of the City of Owen Sound or their designate.
- 2.3 **City** means the Corporation of the City of Owen Sound.
- 2.4 **Fence** means a barrier constructed of chain link, wood, stone, metal or other material to enclose a swimming pool on a property.
- 2.5 **Gate** means a swinging or sliding barrier used to fill or close an access and includes a door.
- 2.6 **Hydro Massage Pool** means those pools commonly referred to as a hot tub, a whirl pool, a Jacuzzi, or a spa.
- 2.7 **Officer** means the Chief Building Official, a Building Inspector, a By-law Enforcement Officer as appointed by the City to enforce provisions of by-laws, or a Police Officer appointed under the Police Services Act.
- 2.8 **Owner** means the registered owner of the property, occupant, resident, or tenant, lessee, mortgagee in possession or the person in charge of the property acting as the authorized agent of the owner.
- 2.9 **Self-Closing Device** means a mechanical device or spring which returns a gate to its closed position within 30 seconds after it has been opened.
- 2.10 **Self-Latching Device** means a mechanical device or latch which is engaged each time the gate is in its closed position, which will not allow the gate to be re-opened by pushing or pulling, and which will ensure the gate remains closed until unlatched by either lifting or turning the device itself directly or by a key.
- 2.11 **Swimming Pool** means a structure, basin, chamber, or tank containing or capable of containing water, designed to be used for swimming or wading that has a depth of more than 0.4 metres at any point or has a surface area of more than 2 square metres.
- 2.12 **Swimming Pool Fence** means a barrier, wall, structure or building which encloses a swimming pool.

SECTION 3. – REGULATIONS FOR FENCES ENCLOSING SWIMMING POOLS

- 3.1 No person shall construct or install or cause to be constructed or installed a swimming pool without having first obtained a Swimming Pool Fence Permit from the Chief Building Official.
- 3.2 No person shall construct an in ground swimming pool without first installing temporary fencing during construction to enclose the excavation.
- 3.3 Section 3.2 shall not apply to any yard with a permanent fence and gate maintained to this By-law's requirements as set out in Section 4 for fences and gates enclosing swimming pools.
- 3.4 The owner shall ensure that the required temporary fencing be in place during all phases of construction.
- 3.5 No person shall construct, or cause to be constructed a swimming pool fence or gate that does not conform to the requirements of this By-law.
- 3.6 No person shall place water in a swimming pool or allow water to remain therein, unless a swimming pool fence and gate have been erected as required by this By-law.
- 3.7 No person shall use or permit to be used a swimming pool with a fence or gate that does not conform to the requirements of this By-law.
- 3.8 No person shall replace a swimming pool fence without having first obtained a Swimming Pool Fence Permit from the Chief Building Official.
- 3.9 No person shall place or store materials or objects against the outside of a swimming pool fence that would facilitate climbing.
- 3.10 No person shall keep, have or maintain a swimming pool fence or gate except in accordance with this By-law.
- 3.11 An enforcing officer after discovering a violation of Section 3, may cause the violation to be corrected and the costs of such action be charged to the owner in a like manner as taxes.

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- 3.12 *The requirements of this By-law shall not apply to a Hydro Massage Pool provided that the Hydro Massage Pool is fitted with a cover of rigid material that is placed over the entire opening of the Hydro Massage Pool and is secured in place in order to prevent access by unauthorized persons when the Hydro Massage Pool is not in use.*

SECTION 4. - SWIMMING POOL FENCE AND GATE REQUIREMENTS

- 4.1 Every swimming pool shall be enclosed by a swimming pool fence, which is of sturdy construction and capable of preventing unauthorized entry.
- 4.2 Every swimming pool fence gate shall be equipped with a self-closing device and a self-latching device, and the self latching device shall be located at least 1.2 metres above grade.
- 4.3 Every swimming pool shall be enclosed by a swimming pool fence and gate, which shall extend from grade to a height of not less than 1.2 metres.
- 4.4 Every fence enclosing a swimming pool shall not have any openings that would allow the passage of a spherical object having a diameter greater than 10 centimetres, except every chain link fence shall have a link opening of no greater than 3.8 centimetres.
- 4.5 All fences enclosing a swimming pool shall have a minimum vertical distance of 1.0 metres between each horizontal rail.

- 4.6 No swimming pool fence shall have horizontal or diagonal bracing or attachments on the outside that may facilitate climbing.
- 4.7 Where a deck forms part of the swimming pool fence, the deck shall meet all regulations in Section 4 of this By-law and comply with all applicable law.
- 4.8 The provisions of Section 4 of this By-law shall apply to all privately owned outdoor swimming pools regardless of the date of construction of the swimming pool.

SECTION 5. – PENALTY

- 5.1 Any person who contravenes the provisions of this By-law is guilty of an offence and upon conviction therefor is subject to the penalty set out in the Provincial Offences Act.

SECTION 6. – TERMS SEVERABLE

- 6.1 The terms and provisions of this By-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the By-law shall continue to be in full force and effect.

SECTION 7. – BY-LAWS REPEALED

- 7.1 By-law Numbers 3392, 1982-78, 1992-51 and 1992-107, are hereby repealed.

SECTION 8. – EFFECTIVE DATE

- 8.1 This By-law shall come into full force and effect upon the final passing hereof.

FINALLY PASSED AND ENACTED this 10th day of May, 2010.

Signature on file
Mayor

Signature on file
Deputy Clerk