

THE CORPORATION OF THE TOWNSHIP OF CHAMPLAIN

BY-LAW NUMBER 98-52

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**BEING A BY-LAW RESPECTING THE ENCLOSURE FOR PRIVATELY-OWNED SWIMMING POOLS**

**REFERENCE:** Paragraph 30 of Section 210 of The Municipal Act, R.S.O. 1990, Chapter M.45, as amended

**WHEREAS** paragraph 30 of Section 210 of The Municipal Act, R.S.O. 1990, provides inter alia, that the council of a municipality may pass by-laws for the requiring of owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for describing the height and description thereof, and the manner for erecting and maintaining such fences and gates, for prohibiting persons from placing water in privately-owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected;

**AND WHEREAS** the Council of The Corporation of the Township of Champlain deems it appropriate and necessary to enact such a by-law;

**AND THEREFORE** the Council of The Corporation of the Township of Champlain hereby enacts as follows:

**SHORT TITLE**

1. This By-Law shall be cited as the **"SWIMMING POOL ENCLOSURE BY-LAW"**.

**DEFINITIONS**

2. In this By-Law,
  - a) **"Township"** shall mean The Corporation of the Township of Champlain;
  - b) **"Permit"** shall mean permission or authorization given, in writing, by the By-Law Enforcement Officer to erect enclosures around swimming pools as regulated in this By-Law;
  - c) **"Swimming Pool"** shall mean any privately-owned outdoor below grade or above ground pool of water for bathing, wading or reflecting and which

has a water depth exceeding eighteen (18) inches (45.7cm) at any point;

- d) **"Owner"** shall mean the registered owner of the land and includes a lessee, mortgagee in possession, and the person in charge of the property;
- e) **"By-Law Enforcement Officer"** shall mean the By-Law Enforcement Officer appointed by The Council of The Corporation of the Township of Champlain;
- f) **"Corporation"** shall mean The Corporation of the Township of Champlain.

### **GENERAL REQUIREMENTS**

- 3. Every owner of a privately-owned outdoor swimming pool shall ensure that an enclosure around such a pool is constructed and maintained according to the provisions of this By-Law.
- 4. No person shall place water in a swimming pool in the Township unless
  - a) a prescribed fence(s) and gate(s) are constructed and permanently installed in accordance to the provisions of this By-Law, or
  - b) pending the construction and installation of a permanent structure, a temporary fence may be approved by the By-Law Enforcement Officer for a maximum period of thirty (30) days until full compliance with Section 4(a) of this By-Law.
- 5. No person shall allow water to remain in a swimming pool in the Township unless the prescribed fences and gates or temporary fences have been erected in accordance with the provisions of this By-Law.

### **PERMITS**

- 6. No person shall construct or place a swimming pool on his or her property in the Township without first obtaining a swimming pool enclosure permit.

### **APPLICATION FOR PERMIT**

- 7. To obtain a permit the owner shall file an application, in writing, by completing a prescribed form available at the office of the By-Law Enforcement Officer.
- 8. Except as otherwise permitted by the By-Law Enforcement Officer, every

applicant shall:

- a) identify and describe, in detail, the work to be covered by the permit for which an application is made;
  - b) describe the land on which the pool is to be located by a description that will readily identify and locate the building lot;
  - c) be accompanied by two (2) complete sets of plans showing details of the enclosure as well as its relationship to lot lines, buildings and fences;
  - d) be accompanied by the fee as prescribed in Section 11 hereof, and
  - e) state the names, addresses and telephone numbers of the owner and the contractor performing the work.
9. An application for a permit may be deemed to have been abandoned and cancelled six (6) months after the date of filing, unless such application is being seriously proceeded with.
10. Sufficient information shall be submitted with each application for a permit to enable the By-Law Enforcement Officer to determine whether or not the proposed work will comply with this By-Law or any other applicable law or regulation.
11. The fee for a swimming pool enclosure permit shall be \_\_\_\_\_ \$.

### **CONDITIONS OF PERMIT ISSUANCE**

12. (1) Every swimming pool shall have an adequate enclosure erected around it in accordance with the provisions of subsection (2) to subsection (5) hereof inclusive.
- (2) Except as in subsection 12. (6), every enclosure for a swimming pool shall be
- a) at least 1.5 metres (5 feet) in height, and
  - b) of a close-boarded, chain link or other approved design, to reasonably deter children from climbing it to gain access to the fenced-in area.
- (3) Gates in the enclosure shall
- a) provide protection equivalent to the enclosure;
  - b) be equipped with a latching device with locking capabilities, and
  - c) be locked except when the enclosed area is actually being used and supervised.
- (4) Barbed or page wire fence or fencing energized by electrical current shall

not be used as an enclosure for the swimming pool.

- (5) Where a wall of a building is used as part of an enclosure, all doors located in the wall of the building shall be equipped with self-latching and locking devices.
- (6) In the case of an above ground pool, where the top of the outside wall of the pool is at least 1.2 metres (4 feet) above the level of the ground abutting the wall, the pool walls may be considered as enclosure, but the access and any decks must be adequately enclosed in accordance with subsections (2) to (5) hereof inclusive.
- (7) Every owner of a swimming pool shall, in the absence of an adult person supervision the swimming pool, keep every gate locked. Said gate must be locked in such a way that it can only be opened with a key.
- (8) In the case of an above ground pool, all equipment such as water filter and pump shall be located so as to prevent climbing access to the pool. A minimum of 36" shall be separating the pool wall and any apparatus.

#### **LAWFULLY EXISTING POOL**

13. Owners of swimming pools that were lawfully installed under municipal regulations prior to the date of the passing of this By-Law and having a fence of at least 4 feet shall be considered legal non-conforming.
14. There shall be a minimum distance of 1.2 metres (4 feet) between the enclosure and any part of a below grade swimming pool unless approved otherwise by the By-Law Enforcement Officer.
15. When an enclosure is not erected or maintained, in accordance with the provisions of this By-Law, a notice shall be sent by registered mail or delivered by hand to the owner of the land on which the swimming pool is located, at his last known address requiring him or her to make the enclosure conform to the requirements of this By-Law and the notice shall specify a minimum time of thirty (30) days for compliance.
16. (1) Where a notice has been sent pursuant to Section 15, and the requirements of the notice have not been complied with, the By-Law Enforcement Officer may cause the work to be done, or the water to be removed from the swimming pool and the cost of the work or the removal of the water shall be at the expense of the owner.

- (2) When the By-Law Enforcement Officer causes the work to be done pursuant to subsection 16(1), the Corporation shall have a lien for any amount expended by or on behalf of the Corporation including an administrative fee of ten (10) percent of any amount expended by or on behalf of the Corporation, and the certificate of the Clerk of the Corporation as to the total amount expended shall be admissible in evidence as prima facie proof of the total amount expended and such total amount together with the administrative fee shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in like manner and with the same remedies as real property taxes.
- (3) Before the certificate of the Clerk of the Corporation is issued under subsection (2), an interim certificate shall be delivered to the owner of the property that is subject to the lien, as well as to all prior mortgagees or other encumbrancers and the affected owner, mortgagees or other encumbrancers shall have two (2) weeks from the date of receipt of the interim certificate to appeal the amount shown thereon to the Council of the Corporation.

## **PENALTIES**

17. Every person who contravenes any of the provisions of this By-Law is guilty of an offence and on conviction thereof shall forfeit, and pay a penalty for each such offence and every such penalty shall be recoverable under the Provincial Offences Act, R.S.O. 1990, Chapter P.33 and amendments thereto.
18. When a person has been convicted of an offence under this By-Law, the County Court of the County of Prescott and Russell, or any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.
19. The requirements of this By-Law are severable. If any requirements of this By-Law are held invalid, the application of such requirements to other circumstances and the remainder of this By-Law shall not be affected.
20. This By-Law shall come into force and take effect on the date of passing.

**READ** a first, second and third time and duly adopted on the 14th day of April, 1998.

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**MAYOR - JOHN WILSON**

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**CLERK - ROBERT LEFEBVRE**

**ZONING BY-LAW # 2001-83  
AMENDING SUB-SECTION 3.25  
OF ZONING BY-LAW # 2000-75**

**2001-83**

**3.25 SWIMMING POOLS**

No swimming pool or part thereof, including water circulation or treatment equipment such as a pump or filter and also including any attached deck or platform, shall be located within the minimum front yard or minimum exterior side yard, nor closer than 1.5 m to any rear or interior side lot line. If the deck or platform is attached to the dwelling, it may project into a minimum rear yard not more than 1 m.

**RÈGLEMENT # 2001-83  
MODIFIANT LE PARAGRAPHE 3.25  
DU RÉGL. DE ZONAGE # 2000-75**

**2001-83**

**3.25 PISCINES**

Aucune piscine ni partie de celle-ci, incluant l'équipement de circulation de l'eau ou de traitement tel pompe et filtreur, de même que toute plate-forme ou terrasse rattachée, ne peut être placée dans la cour avant minimale ou dans la cour latérale extérieure minimale, ni à moins de 1,5 m de toute ligne de terrain arrière ou latérale intérieure. Si la plateforme ou la terrasse est attachée à l'habitation, elle peut s'avancer dans la cour arrière minimale d'au plus un (1) mètre.

**TOWNSHIP OF CHAMPLAIN**

**APPLICATION FOR SWIMMING POOL ENCLOSURE PERMIT, BY-LAW N° 98-52**

Date of Application: _____	Permit N° _____
Roll N°: <b>02 09</b>	Zoning: _____

Name of Owner: \_\_\_\_\_ Tel.: \_\_\_\_\_  
 E-mail address: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Name of Contractor: \_\_\_\_\_  
 Address: \_\_\_\_\_

**DESCRIPTION OF WORKS**

Location of works: \_\_\_\_\_  
civic address # Lot Conc. Plan

Type of pool (please check): *ground level:* \_\_\_\_\_ *above ground:* \_\_\_\_\_  
*spa:* \_\_\_\_\_ *inflatable:* \_\_\_\_\_

Size of pool: \_\_\_\_\_  
length X width or diameter height or depth

Type of fencing and gates: \_\_\_\_\_  
details: walls of the pool, wooden fence or chain link, height...

and / or lockable cover (for inflated pool or spa) (please check): \_\_\_\_\_

Deck(s) to be built: \_\_\_\_\_  
details: dimensions, material... (sketch to be attached, if so requested)

Estimated value (of all works): \$ \_\_\_\_\_

**PLOT PLAN**

**On the reverse side of this page or on a separate sheet, please indicate (with a sketch) where the pool, deck(s), enclosure (fence), building(s), septic tank, tile bed and lot lines... are situated on your property and specify the distance between those.**

**DECLARATION:** I, the undersigned, am the authorized owner/agent in the above application and I certify all the statements or representations contained therein to be true. I understand that the issuance of a permit shall not be deemed a waiver of any of the provisions of any by-laws or requirements. In the event a permit is issued, I acknowledge that any departure from specific conditions, plans, specifications or building locations proposed in the above application, is prohibited and could result in the permit being revoked. In the event the permit is revoked for any cause or irregularity or non-conformity with by-laws or requirements, I further acknowledge that there shall be no right of claim whatsoever against the Township or any official thereof and any such claim is expressly waived.

<b>PERMIT FEE:</b> _____ \$
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**Signature of Applicant:** \_\_\_\_\_

**Permit issued by:** \_\_\_\_\_

**APPLICATION FOR SWIMMING POOL ENCLOSURE PERMIT, BY-LAW N° 98-52**  
**PLOT PLAN**

**Please indicate hereunder (with a sketch) where the pool, deck(s), enclosure (fence), building(s), septic tank, tile bed and lot lines... are situated on your property and specify the distance between those.**

**1 square = 10ft / 3.048 m**

