

C O R P O R A T I O N
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 803-77

A By-law to regulate the construction and use of swimming pools and to provide for the erection and maintenance of fences and gates around such pools.

WHEREAS Section 354(1)24 of The Municipal Act authorizes a municipality to pass a by-law to require owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height and description of, and the manner of erecting and maintaining such fences and gates;

AND WHEREAS Section 35(1)4 of The Planning Act authorizes a municipality to pass by-laws for regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land the proportion of the area thereof that any building or structure may occupy;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. For the purpose of this by-law -
 - (a) "Swimming Pool" shall mean any privately owned body of water located outdoors contained in part or whole by artificial means in which the depth of water at any point can exceed 24" and used or capable of being used for swimming, diving or bathing, but shall not include a pond created and used for agricultural purposes.
 - (b) "Owner" includes lessee, tenant or person in possession of property on which a swimming pool is located.
 - (c) "Swimming Pool" as defined in (a) of this Section shall be considered -

- (i) a "structure" and subject to building permit fees as set out in Schedule "A" to By-law No. 651-76.
- (ii) an "accessory building" for the purpose of the Zoning By-law 500A-74 of the Town of Niagara-on-the-Lake.

2. No person shall erect or construct a swimming pool without first obtaining a building permit.

3. Application for the erection or construction of a swimming pool shall be accompanied by -

(a) A fully dimensional plot plan showing the entire lot and location of all existing and proposed buildings and structures including swimming pools, whether above or below ground level.

(b) A detail of the fence and gate to be erected around the swimming pool.

4. (a) Every owner of a privately owned outdoor swimming pool shall erect and maintain completely around such pool a chain link fence or a fence of such other designs, materials or construction of similar stability, which provides an equivalent degree of safety, extending from the ground for a height of not less than five feet. Such fence shall be so located that the entry to the swimming pool area shall be only possible by means of one or more gates in the enclosing fence. Such fence shall be of such construction as will reasonably deter any child from climbing over it and will prevent a child from passing through it when the gate is closed.

(b) The gate or gates shall be the same height as the fence and be supported by substantial hinges and be equipped with self-closing, self-latching devices placed at the top and on the inside of the gate and shall be kept locked at all times when the swimming pool is not in use.

(c) The use of barbed wire in any manner in connection with such fence or any device for projecting an electric current through such fence is prohibited.

5. Such 4(a) of this By-law shall not apply to above ground swimming pools which incorporates an overhanging platform the top of which is at least 6 feet above grade level provided that access stairs or ladder are encompassed within a fence complying with this sub-section and sub-sections 4(b) and 4(c).

6. No person shall place water in any swimming pool until Sections 3, 4 and 5 are complied with.

7. (1) Any person who contravenes this by-law is guilty of an offence and is liable upon summary conviction to a penalty not exceeding \$1000.00 excluding costs.

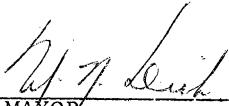
7.

(2) Upon conviction for a breach of any of the provisions of this by-law, the convicting Judge, besides imposing a penalty under sub-section (1) may order the offender to carry out the requirements of this by-law within a time to be limited by the order. In default of the offender carrying out such order, the said Judge may order the Building Inspector, or any other person, to forthwith enter upon the premises where the said breach has taken place and demolish or remove, at the expense of the offender, the said fence or the part thereof erected contrary to the provisions of this by-law. The expense thereof with costs shall be recoverable by action or distress, and in case of non-payment similarly to municipal taxes.

(3) The conviction of an offender upon a breach of any of the provisions of this by-law, shall not operate as a bar to prosecution against the same offender upon any subsequent breach of the same or any other provision of this by-law. The presiding Judge may convict any offender repeatedly for repeated breaches of this by-law, and may, at his discretion, impose upon each conviction any of the penalties provided for by this by-law.

READ A FIRST TIME THIS 24th DAY OF OCTOBER 1977.

READ A SECOND AND THIRD TIME AND PASSED THIS 24th DAY OF
OCTOBER 1977.


LORD MAYOR


CLERK