

## BY-LAW NO. 87-2019

### A BY-LAW OF THE CORPORATION OF THE TOWN OF CARLETON PLACE TO REGULATE THE ERECTION OF POOLS AND THEIR REQUIRED SAFETY ENCLOSURES.

**WHEREAS** Section 11(1) provides that a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4); and

**WHEREAS** Section 5.3 of the *Municipal Act, 2001* (S.O. 2001, c.25) authorizes that municipal powers, including municipality's capacity, rights, powers and privileges under Section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

**AND WHEREAS** Section 11 (2) 6. of the *Municipal Act, 2001* (S.O. 2001, c.25) provides that a lower-tier municipality may pass by-laws respecting the health, safety and well-being of persons; and

**WHEREAS** Section 128 of the *Municipal Act 2001*, S.O. 2001 c.25 provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of council is or could become or cause public nuisances; and

**WHEREAS** Section 130 of the *Municipal Act 2001*, S.O. 2001 c. 25, a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality; and

**WHEREAS** Council for The Corporation of the Town of Carleton Place deems it advisable to pass a by-law to regulate the erection of pools and their safety enclosures;

**NOW THEREFORE** the Council of the Corporation of the Town of Carleton Place enacts as follows:

#### 1. DEFINITIONS

1.1. In this By-law, the terms:

- 1.1.1. **"Above-grade pool"** means a pool installed entirely on or above established grade;
- 1.1.2. **"Below-grade pool"** means a pool installed entirely below grade with no more than 150mm (6 in) above established grade;
- 1.1.3. **"By-law"** means the Pool and Pool Enclosure By-law;
- 1.1.4. **"Chief Building Official"** means the person so appointed by Council pursuant to the provisions set out in the *Ontario Building*

*Code Act* or their designate as required from time to time;

- 1.1.5. **“Development Permit By-Law”** means the most current version of the Town of Carleton Place Development Permit By-Law;
- 1.1.6. **“Enclosure(s)”** means any combination of fence, wall or other structure, including gates, surrounding a pool to restrict access thereto, and in the case of a hot tub, a lid made lockable by a manufactured device to be installed and in effect when not in use that restricts access to a **pool**;
- 1.1.7. **“Established grade”** means the elevation of the finished surfaces immediately surrounding the outside of the enclosure;
- 1.1.8. **“Exterior Side Yard”** means a side yard adjacent to a public street. In the case of an irregular lot, if a proposed building or structure conforms to the yard requirements but would be located closer to the property limit than the minimum distance required, the minimum distance required shall be applied between the property limit and the closest part of the building or structure;
- 1.1.9. **“Front Yard”** means a yard extending across the full width of the lot between the front **lot line** and a line drawn parallel or concentric thereto and through the point of the main wall of a main building closest to the front lot line;
- 1.1.10. **“Hybrid-pool”** means a pool that is constructed to be partially below established grade to a depth of no more than 0.9m (3 ft);
- 1.1.11. **“Hot tub”** means a large tub that may be filled with hot aerated water used for recreation or physical therapy and is commonly referred to as a whirlpool or Jacuzzi;
- 1.1.12. **“Interior side yard”** means a yard extending from the front yard to the rear yard between the side lot line and a line drawn parallel or concentric thereto and through the point of the main wall of a building closest to the side lot line;
- 1.1.13. **“Lot, Lots”** means a parcel of land which is capable of being legally conveyed in accordance with the *Planning Act*;
- 1.1.14. **“Lot line”** means a boundary line of a lot;
- 1.1.15. **“Municipal Law Enforcement Officer”** means the person appointed by Council to enforce Municipal By-laws;

- 1.1.16. **"Ontario Building Code"** means the most current version of the Ontario Building Code in effect;
- 1.1.17. **"Permit"** means permission or authorization in writing from the Chief Building Official to erect enclosures around pools as regulated by this By-law;
- 1.1.18. **"Pool"** means a residential privately owned outdoor pool of water for swimming, bathing, wading or reflecting which is capable of retaining a water depth equal to or greater the 600 mm (24") at any point, but shall not include facilities for the purposes of providing water to livestock or for irrigation of crops which are associated with and located on land devoted to the practice of farming;
- 1.1.19. **" Professional engineer"** means a licensed and insured Structural Engineer practicing in the Province of Ontario.
- 1.1.20. **"Rear lot line"** Means the lot line furthest from, and opposite to, the front lot line, except in the case of a lot with frontage on a waterbody where there is no rear lot line
- 1.1.21. **"Rear yard"** means a yard extending across the full width of the lot between the rear lot line and a line drawn parallel or concentric thereto and through the point of the main wall of the main building closest to the rear lot line. Where there is no rear lot line, the rear yard shall be measured from the intersection of the side lot lines to the closest point of the main wall of the main building. In the case of a lot on a waterbody, the rear yard shall be considered to be on the opposite side of the principle access to the building;
- 1.1.22. **"Stagnant"** means untreated water having no current or flow and often having an unpleasant smell and appearance and can become a breeding location for insects as a consequence of its condition;
- 1.1.23. **"Town"** means all the lands contained within the Corporation of the Town of Carleton Place.

## 2. GENERAL REGULATIONS

- 2.1. No person shall erect or place a pool on any property within the Town without first obtaining a permit from the Town.
- 2.2. This By-Law regulates the erection of a pool and its enclosures. Safety once within the enclosure is the responsibility of the owner/tenant of the property.
- 2.3. Every owner/tenant of a privately-owned outdoor pool shall ensure that an enclosure around such pool is constructed and maintained according to the

provisions of this By-law.

- 2.4. No person shall place water in a pool unless the prescribed enclosures have been erected in accordance with the provisions of this By-law.
- 2.5. No person shall allow water to remain in a pool unless the enclosures have been erected and maintained in accordance with the provisions of this By-law.
- 2.6. A permit is not required in the case of a pool which has been dismantled and is being reconstructed in the same position, location, and manner in which it was previously located as long as a permit was obtained for the original installation, and the reinstallation meets the requirements of the By-law under which the pool was originally erected, and the required enclosure is still in place.
- 2.7. No person shall permit part of any *above-ground pool, in-ground pool, hybrid-pool* or any other *pool* including the surrounding decking, to be located closer than 1.2m (4') to any rear yard or interior side yard lot line, no closer than 3m (10') to that portion of the rear yard lot line which adjoins the interior side yard of the adjoining lot, and on a corner lot no closer than the required exterior side yard setback set out by the Development Permit By-Law.
- 2.8. No person shall permit pool in the front yard of a lot at any time.
- 2.9. All water circulating or treatment equipment such as pumps, filters and mechanical gas or electric heating equipment shall be meet the following criteria:
  - 2.9.1. Shall not be closer than 1.2m (4') to a rear lot line;
  - 2.9.2. Shall not be closer than 1.2m (4') to any interior lot line;
  - 2.9.3. Shall be contained within the pool enclosure, or be enclosed by fence which exceeds the height of the equipment by no less than 300mm (1');
  - 2.9.4. Shall not be located in the front yard, and
  - 2.9.5. May be contained in an existing or new building if the equipment type permits (Gas fired appliance may not be permitted in a building). Any new building will be subject to the Development Permit By-law and will require a permit if over 10m<sup>2</sup> in area.
- 2.10. All Pools will be required to meet set back requirements from municipal drains, natural water courses and environmentally sensitive areas as per the

## **Development Permit By-Law.**

- 2.11. There shall be a minimum horizontal distance of 750 mm (2' 6") between any part of an enclosure and the inside face of a below grade pool wall assembly for a continuous distance of at least fifty percent (50%) of the perimeter of the pool.

### **3. PERMIT APPLICATION AND PERMIT REVOCATION**

- 3.1. To obtain a permit, the owner/tenant shall file an application either electronically or in writing on the Town's **pool** or **hot tub** permit application obtained from the Town Hall or from the Town's website.
- 3.2. Except as otherwise permitted by the Chief Building Official, every application shall include:
  - 3.2.1. Two (2) copies of a site-plan which will identify the location of the *pool*, house, *enclosure* location in relation to the *pool* and the house, self-latching and locking gate location(s) in the *enclosure*, *pool* equipment location, well and septic location (if applicable) and closest measured distance from the *pool* and *enclosure* to each property line of the property it is being installed on.
  - 3.2.2. Two (2) copies of the dimensions of the *pool* being installed (diameter, width, length) and the depth of the *pool* (indicating depths in deep and shallow end if applicable), and height of the *pool* above grade if applicable.
  - 3.2.3. Two (2) copies of the dimensions and details of the enclosure that will be constructed around the pool.
- 3.3. The Chief Building Official may revoke a pool or hot tub permit at any time if any of the following criteria are met:
  - 3.3.1. It was issued based on mistaken, false or incorrect information;
  - 3.3.2. If after six (6) months after its issuance, the construction in respect of which it was issued has not, in the opinion of the Chief Building Official, been materially commenced.
  - 3.3.3. If the permit was issued in error.

### **4. POOL AND HOT TUB ENCLOSURES AND EQUIPMENT LOCATIONS**

- 4.1. Every owner/tenant shall ensure that any above-grade pool, below-grade pool, hybrid-pool or any other pool or hot tub is provided with an enclosure that meets the following criteria:

- 4.1.1. Have a minimum height of 1.5 metres (5');
  - 4.1.2. Shall be of a close boarded, chain link or other approved design, to reasonably deter individuals from climbing to gain access to the fenced area;
  - 4.1.3. Shall have no openings under or in the fence that are greater than 100mm (4") in diameter;
  - 4.1.4. Shall have self-closing and self-latching hardware installed at the top of the gate with the latch being located on the inside of the gate;
  - 4.1.5. Shall be lockable.
- 4.2. Section 4.1 does not apply to above-grade pools which meet the following criteria:
- 4.2.1. The pool has a sidewall height of at least 1.2m (4') above established grade;
  - 4.2.2. Sidewalls are smooth and have no horizontal projections of any type on the exterior of the pool side that will facilitate climbing;
  - 4.2.3. Shall have no pool equipment or other climbable surface located within 1.2m (4') of the sidewall of the pool, including any deck structure;
  - 4.2.4. Shall have a removable ladder or a ladder that can be locked in a non-climbable position when not in use.
- 4.3. Any deck or pool enclosure that has access via a door opening from the dwelling unit/liveable area of the unit shall have a device to lock the door entering the aforementioned areas. The locking mechanism required shall be installed at a minimum height of 1.36m (4.6') from the finished floor area.
- 4.4. Barbed-wire or fencing energized by electrical current, sharp projections of any other dangerous characteristics shall be prohibited as an enclosure for a pool or hot tub.
- 4.5. Any pool or hot tub with access from a deck area that has access via the yard serving the residence shall be protected as per the requirements below:
- 4.5.1. Shall be equipped with a protective gate with a height of at least 1.5m (5') that is self-closing, self-latching and self-locking, with the locking/latching mechanism on the inside of the gate, and creates an access barrier that separates access from the deck surface to

the pool surface; or

- 4.5.2. Have an enclosure around the deck that provides access to the pool as per section 4.1. of this By-law.
- 4.6. A Hot Tub is not required to meet the requirement of 4.5.1 as long as it has a lockable lid system.

## **5. BUILDING PERMITS FOR DECK EXTENSIONS AND NEW POOL DECKS**

- 5.1. Any decks which are to be extended, or decks that are newly constructed, which meet any of the following criteria, shall require a new building permit if being installed in conjunction with a pool:
  - 5.1.1. Any freestanding deck with no attachment to the dwelling unit and over 10m<sup>2</sup> (108 ft<sup>2</sup>) in area;
  - 5.1.2. Any existing freestanding deck with no attachment to the dwelling unit that is enlarged to be over 10m<sup>2</sup> (108 ft<sup>2</sup>) in area, or
  - 5.1.3. Any deck of any size that a person would have to walk over when exiting from a new or existing door that serves a dwelling unit.
- 5.2. All decks that require permits as per 5.1 shall be required to have a building permit and be constructed as per the requirements of the Ontario Building Code.
- 5.3. Decks being constructed shall be subject to the requirements of the Development Permit By-Law.
- 5.4. Any deck guards that are modified to accommodate access to a new pool shall not make the guard non-compliant with the Ontario Building Code.

## **6. ELECTRICAL AND STRUCTURAL REQUIREMENTS**

- 6.1. Every pool and hot tub and surrounding deck that is supplied with an electrical connection shall comply with the requirements of Ontario Electrical Code as administered by the Electrical Safety Authority (ESA), and all circuits shall be provided with ground fault interruption.
- 6.2. Every hot tub that is installed on a deck shall have the deck structure designed by a Professional Engineer, to ensure the deck structure has capacity to safely and effectively support all live and dead loads as per the Ontario Building Code.

## **7. INSPECTION**

- 7.1. Upon completion of installation of enclosure construction, pool and water circulating or treatment equipment (such as pumps or filters equipment installation), and electrical installation or any individual required portion previously mentioned, the applicant shall be responsible to call the Chief Building Official to have an inspection completed to ensure the installation of any, or all of the above mentioned items matches submitted designs.

## **8. FEES**

- 8.1. Permit fee for each pools and hot tubs shall be in accordance with the most current Town of Carleton Place Fees By-law.

## **9. MAINTENANCE**

- 9.1. The owner/tenant, lessee or agent of the lot upon which any pool, hot tub, and/or pool enclosure is located, shall maintain each pool, hot tub, and enclosure in a proper state of repair, so that such pool, hot tub and/or enclosure does not become unsafe, unsightly or dangerous.
- 9.2. When an enclosure is not erected or maintained, in accordance with the provisions of this By-law, the Chief Building Official or Municipal By-law Enforcement Officer shall send a notice by registered mail or by hand to the owner/tenant and occupant of the land on which the pool or hot tub is located. This notification shall be sent to the owner/tenant and the occupant address requiring him or her to make the enclosure conform to the requirements of this By-law and the notice shall specify the time allowed for compliance.
- 9.3. Where the Chief Building Official or Municipal By-law Enforcement Officer pursuant to 9.2 has sent a notice, and the requirements of the notice have not been complied with, the Council may cause the work to be done and the cost of the work shall be at the expense of the owner/tenant.
- 9.4. When the Council causes the work to be done pursuant to Section 9.3, the Town may recover the expense incurred in like manner as Municipal Taxes

## **10. ENFORCEMENT**

- 10.1. This By-law may be enforced by any Municipal By-law Enforcement Officer.
- 10.2. No person shall interfere with a Municipal By-law Enforcement Officer engaged in the enforcement of this By-law.

## **11. PENALTY:**

- 11.1. Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to the penalties provided for in the *Provincial Offences Act, R.S.O. 1990, c. P. 33*.
- 11.2. Upon registering a conviction of any provision of this By-law, the Ontario Court, Provincial Division, may in addition to any penalty imposed by this By-law make an order prohibiting the continuation or repetition of the offence by the person convicted.

**12. REPEAL:**

- 12.1. By-law No. 63-2008 as amended is hereby repealed in its entirety upon the passing of this By-Law.

**13. SHORT TITLE:**

- 13.1. This By-law may be cited as the “Pool and Pool Enclosures By-law”.

**14. EFFECTIVE DATE:**

- 14.1. This By-law shall not come into force and effect on the date of its passing.

READ A FIRST TIME, SECOND TIME AND A THIRD TIME AND FINALLY PASSED  
THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2019.

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Doug Black, Mayor

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Stacey Blair, Clerk