

THE CORPORATION OF THE TOWN OF COCHRANE

BY-LAW NUMBER 127-2001

BEING A BY-LAW REQUIRING THE
ERECTION OF FENCES AND GATES
AROUND PRIVATE OUTDOOR SWIMMING
POOLS

WHEREAS authority is granted under the Municipal Act, R.S.O. 1990, Chapter M.45, Section 210, paragraphs 25 and 28 to prescribe the height and description of lawful fences and to require proper and sufficient protection against injury to persons or animals by fences constructed of barbed wire and for prohibiting the erection of such fences;

AND WHEREAS authority is granted under the Municipal Act, R.S.O. 1990, Chapter M.45, Section 210, paragraph 20 to require owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, to prescribe the height and description of, and the manner of erecting and maintaining such fences and gates, to prohibit persons from placing water in privately-owned outdoor swimming pools or allowing water and remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit certifying approval of such plans without which permit no privately-owned outdoor swimming pool may be excavated for or erected and for authorizing the refusal of such a permit for any such fences or gates that if erected would be contrary to the provisions of any by-law of the municipality;

AND WHEREAS it is deemed expedient by the Municipal Council of the Corporation of the Town of Cochrane to enact a By-Law requiring the erection of, and regulating the height, description and manner of, fences enclosing privately-owned outdoor swimming pools in order to prevent access to such swimming pools by small children and ensure the safety and well-being of the general public;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cochrane enacts as follows:

DEFINITIONS

1. For the purpose of this By-Law, the following definitions shall apply:
 - (a) **ENCLOSURE** means a fence, wall or other structure including doors and gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

- (b) **PRIVATELY OWNED OUTDOOR SWIMMING POOL** means any body of water located outdoors on privately-owned property, contained in part or in whole by artificial means, in which the depth of the water at any point can exceed twenty-four (24) inches and used or capable of being used for swimming.
 - (c) **SERVICE ENTRANCE** means that entrance into a building which would normally be used by persons entering such building for the purpose of delivering goods or rendering maintenance service.
 - (d) **OWNER** includes a person in possession of the property on which the swimming pool is located.
 - (e) **PERSON** means any firm, corporation, partnership, individual or association.
 - (f) **REGION** means the Municipality of Cochrane.
 - (g) **CHIEF BUILDING OFFICIAL** means the Chief Building Official and Property Standards Officer, or an appointee or agent vested with likewise authority, of the Corporation of the Town of Cochrane.
 - (h) **SWIMMING** includes wading, bathing or diving.
2. No persons shall erect a fence or gate for a swimming pool until plans for such fences and gates have been submitted to the Chief Building Official and a permit certifying approval of such plans has been issued.
3. No person shall excavate for or erect a privately-owned swimming pool without a certificate that approval of the plans for the fence and gates has been issued.
4. A permit may be refused if the fences or gates do not comply with any By-Law.
5. No person shall place water in a privately-owned outdoor swimming pool or allow water to remain therein unless the enclosure prescribed by this By-Law has been erected.

ENCLOSURES

6. (a) The owner of a privately-owned outdoor swimming pool shall erect and maintain an adequate enclosure surrounding the entire swimming pool area and sufficient to make such body of water not readily accessible to small children.
- (b) Except as further provided in clause 6 (c), such enclosure including gates therein, shall extend from the ground to a height, measured on the outside of the enclosure, of not less than four (4) feet nor higher than six (6) feet.

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- (c) Where a wall of a building forms part of such enclosure, no main or service entrance to the building shall be located within the swimming pool area enclosure, except that this requirement shall not apply when the main entrances and all exterior service meters and intakes are located outside the enclosure and a sign is erected and maintained directing all service personnel to use the main entrance.
- (d) Except as provided in (e) (vi) (2), such enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
- (e) A fence of its equivalent forming part of such:
- (i) shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in clause (e) (vi);
 - (ii) if of chain link construction, shall:
 - 1. be of not greater than 1 ½ inch diamond mesh;
 - 2. be constructed of galvanized steel wire not less than No. 12 gauge, or of minimum 14 gauge steel wire covered with a vinyl or other approved coating, forming a total thickness equivalent to No. 12, gauge galvanized wire;
 - 3. be supported by at least 1 ½ inch diameter galvanized steel posts each covered by a minimum of two (2) inches of concrete from grade to a minimum of two (2) feet below grade, such posts to be spaced not more than ten (10) feet apart. Top and bottom horizontal rails shall be provided of 1 ¼ inch minimum diameter galvanized steel, except that a ¼ inch minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating.
 - (iii) if of wood construction, shall:
 - 1. have the vertical boarding attached to supporting members all of which are arranged in such a manner so as not to facilitate climbing from the outside. Such vertical boards shall be not less than one inch by four inch nominal dimensions spaced not more than 1 ½ inches apart;
 - 2. be supported by a minimum of four inch square or four inch diameter cedar posts, nominal dimensions spaced not more than eight feet on centres securely embedded to a minimum of two feet below grade. That portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood two inch by four inch minimum nominal dimensions;

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- (iv) shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence;
 - (v) shall be located not less than four feet from the swimming pool unless:
 - (i) the required height of said fence, as prescribed in paragraph 6 (b), is increased to six feet, and
 - (ii) a continuous hand hold is available along the edges of the pool for the purpose of providing in an emergency support for a person in the pool, and such fence shall not regardless of height, be located closer than four feet to any condition on the property that would contribute to the lessening of these minimum safety requirements by facilitating the climbing of the swimming pool fence.
 - (vi) may be of construction other than that specified provided an equivalent degree of safety is maintained and shall:
 - 1. be constructed so that the rigidity is equal to that specified for those fences described in clauses (e) (ii) or (iii);
 - 2. be permitted to have exposed structural or other members of parts thereof that may facilitate climbing the outside of the enclosure provided the minimum clear vertical distance between any such members, or parts thereof, is four feet and, regardless of the location of such members, where this minimum four foot vertical dimension is maintained the least dimension of any opening through such fence may be increased to not more than that required to prevent the passage of a spherical object having a diameter of four inches.
 - (f) Gates forming part of such enclosure shall:
 - (i) be of construction and height equivalent to that required for the fence;
 - (ii) be supported on substantial hinges, and
 - (iii) be self-closing and equipped with a locking device and with a self-latching device placed at the top and on the inside of the gate such that the device latches when the gate is in the closed position.
 - (g) Subject to the provisions of Paragraph (c), doors providing access from a building directly to an enclosed swimming pool area, other than door located in a dwelling unit or rooming unit, shall each be self-closing and equipped with a locking device and with a self-latching device located not less than five feet above the bottom of the door.

- (h) The owner of every privately-owned outdoor swimming pool shall ensure that every gate and door required by Paragraphs (f) and (g) to be equipped with a locking device shall be kept locked **at all times** if a responsible person is not present and supervising the pool

UPGRADING

7. Any persons who have erected a fence, gate, or enclosure for a swimming pool, or who have erected or excavated for a privately-owned swimming pool prior to the enactment of this By-Law, may, upon inspection by the Chief Building Official, and upon written notice from him, be directed or required to upgrade, or make any necessary alterations, corrections, additions or changes to, or complete any necessary work, repairs, construction or extensions to existing enclosures, fences, or gates, such that they comply with the standards, provisions, specifications and requirements as set out within this By-Law.

PENALTY, PROSECUTIONS

8. Every person who contravenes any of the provisions of this By-Law is guilty of an offence and upon conviction is liable to a fine of not more than **FIVE THOUSAND (\$5,000.00) DOLLARS**, as provided for under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
9. Where any person has contravened any of the provisions of this By-Law, and where a conviction has been entered, in addition to any other remedy and to any penalty imposed by this By-Law, the Court in which the conviction has been entered, and any Court of competent jurisdiction thereafter, may make, and any person will be subject to, an order prohibiting the continuation or repetition of the violation and offence by the person so convicted.
10. In addition to any penalty levied by reason of contravention of this By-Law, the Corporation of the Town of Cochrane, may, at its option, direct or require that any action, work, repairs, construction, alterations, extensions, or corrections be completed in order that the provisions, standards and specifications of this By-Law may be complied with. In the event that the person so directed by the Corporation of the Town of Cochrane fails to complete the necessary work as directed and required by the Corporation, such work as is necessary may be completed by the Corporation at the expense of that person and the Corporation may recover that expense by action or in like manner, as municipal taxes pursuant to the provisions of the Municipal Act.

GENERAL

- 11. If any provision of this By-Law is declared invalid for any reason by a Court of competent jurisdiction, the remainder of the By-Law shall continue in force.

- 12. **THAT** By-Law Number 2169-85 of the former Town of Cochrane be and is hereby repealed.

- 13. **THAT** By-Law Number 813 of the former Township of Glackmeyer be and is hereby repealed.

- 14. **THAT** this By-Law come into full force and effect immediately upon the passing thereof.

READ a first and second time this 14th day of May, 2001

MAYOR

CLERK

READ a third time and finally passed this 14th day of May, 2001.

MAYOR

CLERK