

**THE CORPORATION OF THE TOWN OF DESERONTO**

**BY-LAW NO. 28-07**

**BEING A BY-LAW PRESCRIBING THE HEIGHT AND DESCRIPTION OF, AND THE MANNER OF ERECTING AND MAINTAINING FENCES AND GATES AROUND PRIVATELY-OWNED OUTDOOR SWIMMING POOLS.**

WHEREAS pursuant to Section 11 (1) part 7 of the Municipal Act, S.O. 2001 Chapter 25, authorizes a municipality to pass by-laws respecting fences.

AND WHEREAS the Corporation of the Town of Deseronto deems it advisable to pass such a by-law;

**1. DEFINITIONS**

**ENCLOSURE** – means a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.

**PRIVATELY-OWNED OUTDOOR SWIMMING POOL** – means any privately owned body of water located outdoors contained in part or in whole by artificial means in which the depth of the water at any point can exceed eighteen inches and used or capable of being used for swimming, wading, diving or bathing.

**SERVICE ENTRANCE** – means that entrance into a building which is normally used by persons entering such building for the purpose of delivering goods or rendering maintenance service as opposed to the main or principal entrance.

**2. ENCLOSURES:**

- 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) No person shall fill a privately-owned outdoor swimming pool with water or maintain such pool filled with water until an enclosure complying with the requirements of this section has been erected around the swimming pool. During the course of construction, the owner or his agent may fill the said pool with water during such period as is required for the purpose of testing and backfilling the said pool.
- 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 five feet (5').
- d) When 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 entrance 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.

- e) Except as provided in f) (vi) (2), such enclosures shall have not rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
  
- f) A fence forming part of such enclosure,
  - (i) shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in clause f) (vi);
  - (ii) if of chain link construction, shall
    - (1) be of not greater than 1-1/2 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 1-1/2 inch diameter galvanized steel posts each covered by a minimum of two inches of concrete from grade to a minimum of two feet below grade, such posts to be spaced not more than ten feet apart. Top and bottom horizontal rails shall be provided of 1-1/4 inch minimum diameter galvanized steel, except that a 1/4 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 1 x 4 inch nominal dimensions spaced not more than 1-1/2 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;
  - (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 closer than four feet to the swimming pool and not closer than four feet from the exterior side of the fence to any condition that would facilitate climbing 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 f) (ii) or (iii);

- (2) be permitted to have exposed structural or other members or 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.
  - g) 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) each 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.
  - h) Subject to the provisions of Paragraph d), doors providing access from a building directly to an enclosed swimming pool area, other than doors located in a dwelling unit or a 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.
  - i) The owner of every privately-owned outdoor swimming pool shall ensure that every gate and door required by Paragraph g) and h) to be equipped with a locking device shall be kept locked at all times where there is more than twenty-four inches of water in the pool, and a responsible person is not present and supervising the pool.
3. The location and design of all fences required hereunder to be constructed and maintained around any privately-owned swimming pool, shall be approved by the Building Inspector of the Town of Deseronto.
  4. This by-law shall be enforced by the Building Inspector of the Corporation of the Town of Deseronto.
  5. The provisions of this by-law shall apply to all privately-owned outdoor swimming pools constructed or in construction subsequent to the date hereof.
  6. Any person convicted of a breach of any of the provisions of this by-law shall forfeit and pay, at the discretion of the convicting Magistrate, a penalty not exceeding, exclusive of costs, the sum of three hundred dollars (\$300.00) for each offence.

This by-law shall come into force and take effect immediately on and after the passing thereof.

Read a first and second time this 12<sup>th</sup> day of June, 2007

Read a third time and finally passed this 12<sup>th</sup> day of June, 2007.

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**MAYOR**

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**CLERK**