

The Corporation of the Town of Arnprior

By-Law No. 7367-23

A by-law providing for the Regulation of Private Swimming Pools.

Whereas Section 11(2)(6) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that the municipality may pass by-laws related to the health, safety, and wellbeing of the inhabitants of the municipality; and

Whereas Section 11(3)(7) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws respecting structures, including fences; and

Whereas Section 391(1) of the Municipal Act, 2001 provides that a municipality may pass by-laws imposing fees or charges for services or activities or done by or on behalf of it;

Whereas Section 7 of the Building Code Act, 1992, S.O. 1992, Chap. 23, as amended, empowers Municipal Council to enact certain by-laws respecting construction, demolition, change of use, inspections, and code of conduct for Building Officials; and

Whereas Council of the Town of Arnprior deems it expedient for the protection of the public to enact a by-law to regulate outdoor swimming pools.

Therefore the Council of the Town of Arnprior enacts as follows:

1. Interpretation

For the purposes of this by-law the following definitions shall apply:

- a) "Deck" means a structure that is accessory to a residential use and used as an outdoor living area, with posts holding it erect and a floor that is above finished grade and shall not include a landing or a stair.
- b) "Enclosure" shall mean a fence, wall or other structure, including doors and gates, completely surrounding a pool.
- c) "Fence" means a structure or partition made of wood, metal or other substance that is constructed for any purpose, such as marking the boundary of a property, enclosing a property, providing privacy, preventing access by people or animals, or dividing a property into sections, and includes every door, gate and other closure that forms part of a fence.
- d) "Gate" shall mean a swinging or sliding barrier used to fill or close an access and includes a door.

- e) "Guard" means a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways or other locations to prevent accidental falls from one level to another.
- f) "Lot Line, Interior Side" means a lot line, other than a rear lot line that does not abut a public street.
- g) "Lot Line" means a line delineating any boundary of a lot
- h) "Lot Line, Exterior Side" means the lot line of a corner lot, other than the front lot line, which divides the lot from a street or highway.
- i) "Lot Line, Front" means the lot line that divides the lot from the street or highway, provided that in the case of a corner lot, the shorter lot line that abuts a street or highway is deemed to be the front lot line and the longer lot line that abuts a street or highway is deemed to be an exterior side lot line.
- j) "Lot Line, Rear" means the lot line opposite to, and most distant from, the front lot line. For the purpose of this definition, if two side lot lines join at a point, that point shall be deemed as a rear lot line.
- k) "Swimming Pool" means any body of water contained by artificial means located outdoors on privately owned property in which the depth of the water at any point can exceed 0.6 metres and shall include any accessory deck or support structure.

2. Permit / Application

- a) No person shall construct or cause to construct a swimming pool unless a permit has been issued by the Chief Building Official.
- b) An owner or their agent shall file an application for a permit to construct a swimming pool with the Chief Building Official on the application prescribed by the Chief Building Official.
- c) The application for a permit shall be accompanied by the required fee as prescribed in the user fees and charges by-law (as amended) for the municipality in effect on the day the application is submitted.
- d) The application for the permit "Pool Enclosure Permit" shall be accompanied with by:
 - i. A Site Plan showing the location and distance of the swimming pool and fence in relation to existing lot lines and structures;
 - ii. A Diagram showing the fence construction and height;

- iii. A lot grading and drainage plan completed by a qualified person (Professional Engineer or Certified Engineering Technologist “CET”, or other qualifications as deemed appropriate by the Chief Building Official) where an in-ground swimming pool is proposed;
 - iv. Any other information that the Chief Building Official deems necessary to determine whether the proposed construction will comply with this by-law and any other applicable law, including the Ontario Building Code.
- e) The application for a swimming pool permit that proposes the construction of a deck, floor, platform, structure or any other building as defined and regulated under the Building Code Act, shall be accompanied by separate drawings with sufficient information to enable the Chief Building Official to determine whether or not the proposed construction will conform to the Ontario Building Code and any applicable law. Where a building permit is required for any deck, floor, platform structure or other building, the pool permit shall include the building permit for the same.
- f) The owner or their agent shall notify the Chief Building Official or Inspector of readiness for inspection and schedule for an inspection for an Inspector, upon completion of the construction of the swimming pool and enclosure, prior to use of the swimming pool.

3. Fences / Enclosures - General

- a) No person shall place water in a privately owned swimming pool or allow water to remain in such swimming pool unless a fence / enclosure complying with the provisions of this by-law has been erected and completely surrounds such swimming pool.
- b) No person shall construct a privately owned swimming pool unless there is an approved enclosure erected and maintained entirely around such pool.
- c) A wall of a building may be considered to provide adequate protection for its length when substituted for any portion of a fence, when all doors located in this wall are equipped with a lock. The building shall be continuously occupied, or all doors thereto are to be locked when it is not occupied.
- d) Every fence enclosing a privately owned swimming pool shall be a minimum of 1.5 metres in height and shall be constructed of a close board, chain link, or other suitable product that will reasonably deter individuals from climbing to gain access to the fenced in area.

- e) No barbed wire, or device producing electric current shall form part of a fence or gate serving as an enclosure.
- f) Every fence or fence bottom rail shall not be more than 50 mm above finished grade.
- g) A boundary fence on the lot line may be used as a portion of the fence around a pool area provided such parts of the boundary fence used as fencing complies in all respects to the requirements above.

4. Chain Link Fencing

- a) Chain link fences shall be supported by a minimum 38 mm diameter pre-finished steel posts spaced not more than 3.0 metres apart, extended a minimum of 1220 mm below grade and be encased in concrete at least 50 mm all around.
- b) Chain link shall have a mesh size of 50mm or less, or other approved design such that it will reasonably deter individuals from climbing to gain access to the fenced in area.
- c) A diagram showing the fence construction and height will be required with the application to obtain a pool permit.

5. Close Boarded Fencing

- a) Close boarded fences shall be supported by wood, metal, or composite posts at least 89 mm x 89 mm spaced not more than 2.4 metres apart, extended a minimum of 1220 mm below grade and be encased in concrete at least 50 mm all around, or be of another approved system.
- b) Where wood posts are used, the portion of the post below ground shall be treated with wood preservative.
- c) Close boarded fences shall be installed in an orientation that will reasonably deter individuals from climbing, to gain access to the fenced in area.
- d) A diagram showing the fence construction and height will be required with the application to obtain a pool permit.

6. Gates

- a) Gates in the required fence shall provide protection equivalent to the fence and shall be equipped with self-closing, self-latching devices and a lock located at the top of the gate.

- b) Every privately owned swimming pool shall be secured against entry of the public other than tenants or their guests and no invitation to the public shall be extended.
- c) No person shall leave the gate to a fenced pool area unlocked except when the area is being used and supervised by the owner of the premises, or another adult person authorized by the owner to supervise the use of the pool.

7. Zoning Setbacks & Height Requirements

- a) Outdoor swimming pools and hot tubs are permitted in the interior side, rear and exterior side yards, provided they are set back a minimum of 1.2 metres from the interior side and rear lot lines and 3.0 metres from the exterior side lot line.
- b) No part of such swimming pool or hot tub, including the associated apron or platform shall be constructed in a front yard.
- c) All pools, aprons and platforms shall meet the minimum requirements of this by-law and as provided in the Town of Arnprior Zoning By-law.
- d) Setbacks are to be measured from the water's edge of the swimming pool or hot tub to such lot line.
- e) The maximum height of a swimming pool or hot tub is 1.5 metres above grade.
- f) Swimming pool pumps, filters and heaters are permitted in the interior side, rear and exterior side yards, provided they are set back a minimum of 0.6 metres from the interior side and rear lot lines and 1.5 metres from the exterior side lot line.

8. In-Ground Swimming Pools

- a) A lot grading and drainage plan completed by a qualified person (Professional Engineer or Certified Engineering Technologist "CET", or other qualifications as deemed appropriate by the Chief Building Official) shall be provided prior to issuing a permit, to allow the installation of an in-ground swimming pool.
- b) All equipment such as pumps, filters and heaters shall be situated in a way to deter individuals from climbing to gain access to such pool.
- c) Electrical services to a Pool shall comply with all requirements of the Ontario Electrical Safety Code and the Electrical Safety Authority (ESA). Upon request of an official, a copy of an ESA Certificate of inspection shall be provided to the official.

- d) Water in a pool shall be maintained and not become stagnant. Any stagnant water in a pool shall be fully restored to an acceptable standard or be removed.

9. Above Ground Swimming Pools

- a) The sidewalls of above ground swimming pools shall be vertical, smooth, have no horizontal projections, or any other projections that will facilitate climbing.
- b) Certain above-ground privately owned outdoor swimming pools have a fence around the top of the pool. This fence is an integral part of their construction and shall be a minimum of 1.5 metres in height from the base of the pool. This system shall be considered an integrally constructed fence being part of the required swimming pool enclosure.
- c) Any ladder providing access to the pool shall be readily removable without the use of tools, or lockable in a non-climbable or upright position.
- d) All equipment such as pumps, filters and heaters shall be situated in a way to deter individuals from climbing to gain access to such pool.
- e) Electrical services to a Pool shall comply with all requirements of the Ontario Electrical Safety Code and the Electrical Safety Authority (ESA). Upon request of an official, a copy of an ESA Certificate of inspection shall be provided to the official.
- f) Water in a pool shall be maintained and not become stagnant. Any stagnant water in a pool shall be fully restored to an acceptable standard or be removed.

10. Deck around Pool

- a) Any deck, floor or platform with a guard system that is adjacent to the pool, and / or provides access to the pool shall have a minimum height of 1.5 meters
- b) The deck, floor or platform with a guard system shall be considered non-climbable around its entire perimeter with no openings that will allow the passage of a 100mm diameter sphere.
- c) The deck, floor or platform with a guard system shall be constructed in conformance with the Ontario Building Code.

11. Hot Tubs

- a) Structures known as “Hot Tubs”, “Whirlpools” and Spas” do not require a building permit and need not comply with the enclosure / fence section of this by-law,

provided that a substantial cover is fixed securely to the structure and is lockable to prevent access.

- b) No person shall leave a Hot Tub, Whirlpool or Spa unsecured by a substantial cover fixed securely to the structure and locked, while not attended by a responsible person.

12. Severability

- a) Any section or part of a section of this by-law which may subsequently be held to be invalid, shall be severable from the remainder of the by-law and the invalidity thereof shall not affect the remaining part of this by-law.

13. Enforcement

- a) This By-law shall be enforced by the Chief Building Official or Building Inspector appointed by the Town Council.
- b) The provisions of this by-law shall apply to all installations or alternations of privately owned outdoor swimming pools regardless of the date of construction of such swimming pool.

14. Penalty / Offences

- a) 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 pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, Ch.P.33, as amended. Each day that such offence is committed, or permitted to continue shall constitute a separate offence and may be punishable as such.

15. Repealed

- a) That by-law 4551-97, as amended is hereby repealed.

16. That this by-law shall come into force immediately on the passing thereof.

Enacted and passed this 13th day of March 2023.

Signatures:

Lisa McGee, Mayor

Maureen Spratt, Town Clerk