

# CORPORATION OF THE TOWN OF PRESCOTT

## BY-LAW 07-2000

### *Being a by-law to regulate fences in the Town of Prescott*

**WHEREAS** subsection 210(21) of the Municipal Act, R.S.O. 1990, Chapter M.45 authorizes municipal councils to regulate the height and description of fences around buildings within the municipality;

**WHEREAS** subsection 210(25) of the Municipal Act, R.S.O. 1990, Chapter M.45 authorizes municipal councils and regulate the height and kind of fences within the municipality;

**WHEREAS** subsection 210(30) of the Municipal Act, R.S.O. 1990, Chapter M.45 authorizes municipal councils to require fences around private outdoor swimming pools within the municipality;

**AND WHEREAS** the Corporation of the Town of Prescott has required fences around private outdoor swimming pools and dangerous areas, currently as provided under By-Law 1859, as amended;

**AND WHEREAS** the Council of the Corporation of the Town of Prescott wishes to amend its fencing by-law to regulate fences within the Town, and to include fencing in residential areas;

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

1. Definitions:

- a) "Enclosure" means a fence, wall or other structure, including doors and gates.
- b) "Owner" includes a lessee or tenant in possession of the subject property.
- c) "Person" means an individual, firm, corporation, association or partnership.
- d) "Privately-owned outdoor Swimming Pool" means any artificial body of water, which may be used for diving, swimming or bathing.
- e) "Yard" means an open space appurtenant to a building or structure, on the same lot as the building or structure.

- i) "Front" means the space extending across the full width of a lot between the front lot line and the main building or structure for which such yard is required.
- ii) "Rear" means a space extending across the full width of a lot between the rear lot line and the main building or structure for which such yard is required.
- iii) "Side" means a yard extending from the front yard to the rear yard between the side lot line and the main building or structure for which such yard is required
  - a) "Exterior Side Yard" means a side yard immediately adjacent to a street.
  - b) "Interior Side Yard" means a side yard other than an exterior side yard.

### **Swimming Pools:**

2. The owner of a privately owned outdoor swimming pool shall erect and maintain completely around each swimming pool a fence in accordance with the provisions of this by-law.
3. 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.
4. No person shall fill a privately owned outdoor swimming pool with water, or allow water to remain therein or in an excavation, until the provisions of this by-law have been complied with respect to swimming pool fences.
5. Every fence erected around a privately-owned outdoor swimming pool, including every gate or door, shall extend from the ground to a height of not less than 1.5 metres (5 feet).
6. The fence shall be sufficient in design and structure to make the swimming pool inaccessible from the outside to small children.
7. The fence shall have no attachments or bracing on the exterior of the fence that might facilitate climbing.
8. The fence shall not be located closer than three feet from the edge of any outdoor swimming pool.
9. Every gate erected in a fence around the swimming pool shall be of a construction and height equivalent to that of the fence, be supported on

substantial hinges, and be self-closing and equipped with a self-latching device at the top, a minimum distance of 1 metre (3 feet, 6 inches) above grade.

10. A wall may be used in place of a portion of a required fence provided that it meets the requirements of the fences herein.
11. The owner of every privately-owned outdoor swimming pool shall ensure that every gate and every door providing access to the swimming pool shall be kept locked at all times when a responsible person is not present and supervising the pool.
12. No person shall construct or erect a fence around a privately owned outdoor swimming pool until a permit has been obtained from the Chief Building Official. Plans shall be submitted with an application to construct or erect any such fence to the Chief Building Official, and shall show the location of the swimming pool in relation to the property lines and adjoining buildings and shall provide full details of all fencing required to be erected.
13. No person shall excavate for, or erect any privately owned outdoor swimming pool until the permit for a fence around such swimming pool has been obtained from the Chief Building Official.
14. The Chief Building Official may refuse to grant a permit for the pool or for a fence around a privately owned outdoor swimming pool if the erection of the fence or pool should be contrary to the provisions of any by-law of the Town of Prescott.
15. This by-law shall apply to every fence erected around a privately-owned outdoor swimming pool subsequent to the day of passing of this by-law, provided that where a swimming pool is erected above grade to a minimum height of four feet above the ground and where all other requirements of this by-law are met, such swimming pool walls shall be deemed to comply with the provisions of this by-law respecting swimming pool fences and also provided that
  - a) the grade of the ground adjacent to the outside wall of the said above-ground swimming pool for a distance of 1.2 metres (4 feet) therefrom is at least 1.2 metres (4 feet) below the top of the pool walls, and
  - b) no accessory building or pool equipment that could be used to assist in gaining access to the pool is located within four feet from the pool wall, and
  - c) any ladder or gate or other means of access to the pool is designed to be locked and is maintained in a locked position in a like manner as required for gates in this by-law, and
  - d) the wall of the pool and any deck or other associated construction will provide a degree of security equivalent to a fence required by this by-law.

## Residential Fences

16. No person shall construct a fence on a residential lot in the Town of Prescott unless the fence meets the following provisions:
  - a) the fence or wall constructed in any interior side or rear yards shall be limited to a height of 1.8 metres (6 feet) above grade,
  - b) the fence or wall constructed in any front yard or exterior side yard shall be limited to a height of 1 metre (3 feet, 6 inches) above grade.
17. For the purposes of section 16 of this by-law, an unpierced hedgerow or other unpierced planting in a front yard shall be deemed to be a fence.
18. All residential fences shall be constructed of satisfactory and safe material and maintained in accordance to the Town's property standards and building regulations.
19. Council may grant a variance to the height maximum of a residential fencing in the case that the grade of the land so justifies.

## General Provisions

20. Every person who obtains a permit for the erection of a fence around a privately owned outdoor swimming pool or on a residential lot shall pay a fee of \$35.00.
21. Council shall regulate fencing in all other areas (commercial, institutional and industrial) of the Town through the site plan process.
22. No barbed wire, spire tips, sharp objects or any device for projecting an electric current shall form part of a fence or gate.
23. Any person contravening any provisions of this by-law is guilty of an offence.
24. This by-law shall come into force and take effect upon final passage.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED  
THIS 17<sup>th</sup> DAY OF APRIL 2000**

Mayor



Clerk

