

BY-LAW NO. L-4

**A BYLAW TO REGULATE THE FENCING OF SWIMMING POOLS
IN THE TOWN OF NACKAWIC**

BE IT ENACTED by the Council of the Town of Nackawic as follows:

1. Definitions

In this by-law,

“Swimming pool” shall mean an excavation or container designed to hold water, whether in ground or above ground, the purpose of which is for swimming, diving or any recreational water activity.

“Door and/or gate” means a self-closing door or gate equipped with a spring-loaded hinge.

“Privately owned outdoor swimming pool” shall mean any swimming pool, constructed, assembled or erected on private property, which is not contained wholly within a building and is not used for gain or profit.

“Municipality” means the Town of Nackawic.

2. Prohibitions

No person shall,

- (a) construct or cause to be constructed a privately owned outdoor swimming pool without obtaining a swimming pool fence permit from the municipality,
- (b) place or allow to be placed, water or allow water to remain in a privately owned outdoor swimming pool unless the fences and gates prescribed in this by-law have been erected and maintained in conformance with provisions of this by-law,
- (c) allow the fences and gates, as prescribed in this by-law, to be removed, destroyed or become into a state where they do not perform their intended use.

3. Permits

3.01 Application for a building permit shall be accompanied by a site plan showing:

- location of the principal and any existing accessory building(s) on the property
- size and location of the swimming pool
- location, construction, and height of fencing and gate(s)
- size and location of filter and heater equipment or accessory building housing the equipment
- location of electrical service to buildings or equipment
- location of swimming pool water supply, and
- if the pool is uncovered or covered.

3.02 Plans and specifications must be submitted to the Building Inspector. If the plans and specifications are in conformity with the requirements of this by-law and of all other laws and ordinances applicable thereto, the Building Inspector shall issue a building permit therefore.

3.03 The Building Inspector shall undertake an inspection of the pool formwork and any associated accessory building used for equipment. A final inspection is required after the swimming pool, accessory building, and fencing are completed.

3.04 The permit fee is based on construction value as set out in the Building By-law.

4. Fences and Gates

4.01 The fencing shall be constructed of such material and in such a manner as to not facilitate climbing of the fence.

4.02 Any opening in the fence, provided for passage through the fence shall be protected by a gate. The gate or gates shall be constructed of material not less than equivalent strength as the fence and which provides an equivalent degree of safety, and every gate or gates shall be of at least the same height as the fence and be supported by substantial hinges and be equipped with self-closing, self-latching devices placed at the top and on the inside of the gate.

4.03 Gates shall be kept closed and locked at all times excepting when the fenced in area is in use by the owner, lessee or tenant of the land, or other authorized responsible person.

4.04 Without limiting the generality of the foregoing, and with respect to:

In-Ground Swimming Pool

(a) The fence shall be not less than 1.2 meters (4 feet) and not more than 1.8 meters (6 feet) in height measured from anywhere at the grade of the bottom of the fence vertically to the top.

(b) The enclosure shall be so constructed so as to preclude access through or under said enclosure except by way of a gate. No objects or material, which would facilitate climbing, shall be placed along or by any part of the exterior of the pool enclosure.

(c) The fence shall be constructed in such a manner that no portion of the fence is closer than 1.2 meters (4 feet) to the edge of the swimming pool.

Above Ground Swimming Pool Without Deck, Platform or Other Similar Structure

(a) No other structure or equipment shall be located closer than 1.2 meters (4 feet) from the exterior wall of the above ground swimming pool, with the exception of a ladder or steps, which, if not of the fold up type, shall be removable to allow for removal to a location at least 1.2 meters distant from the exterior wall of the above ground swimming pool when it is not in use.

Above Ground Swimming Pool With Deck, Platform or Other Similar Structure

(a) The enclosure shall be at least 1.2 meters (4 feet) in height, and no more than 1.8 meters (6 feet) over and above the height of the swimming pool, around that portion of the swimming pool, which abuts a deck, platform or other similar structure. The enclosure shall be constructed as to preclude access to the water except by way of a gate, which shall form part of the enclosure.

(b) The gate shall be of a type to preclude access to the water contained in the swimming pool when said gate is in a closed position. The gate shall be equipped with a self-latching device and a locking device and shall be of the same height as the enclosure.

(c) Notwithstanding the foregoing, the enclosure may be less than 1.2 meters in height if it has sufficient outward slope to preclude access to the water contained in the swimming pool, as determined by the Building Inspector.

(d) The top of the exterior wall of that portion of the swimming pool which does not abut a deck, platform or other similar structure shall be at least 1.2 meters above ground elevation and no equipment, or other structure shall be located closer than 1.2 meters from the exterior wall of this portion of the swimming pool.

5. Construction Fencing Requirements

To prevent persons from accidentally falling into the excavation for a swimming pool, the owner shall erect, at the commencement of excavation, a strongly constructed fence, boarding or barricade, not less than 1.2 meters (4 feet) in height around the open sides of the excavation area.

6. Compliance

A swimming pool and all related fences, decks, platforms, structures and equipment, and the erection, construction, location, maintenance and use thereof are subject to the provisions of any Zoning, Building or other by-law of the Town of Nackawic in force from time to time, as well as any amendments thereto.

7. Penalty Provision

Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00).

8. Repeal Provision

8.01 By-Law No. 56, A Bylaw Respecting The Fencing Of Swimming Pools For Safety Purposes, passed by Town Council on June 21, 1982, and amendments thereto, is hereby repealed.

8.02 The repeal of By-Law No. 56, A Bylaw Respecting The Fencing Of Swimming Pools For Safety Purposes, and amendments thereto, shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing or pending at the time of repeal.

DULY PASSED AND ENACTED BY THE COUNCIL OF THE TOWN OF
NACKAWIC ON _____, 2004.

Robert G. Connors, Mayor

Nancy Cronkhite, Chief Administrative Officer

First Reading: March 1, 2004
Second Reading: March 15, 2004
Third Reading: March 15, 2004