

CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

BY-LAW 19-07

Being a By-law respecting the enclosures for privately-owned outdoor swimming pools.

Whereas the Municipal Act, 2001, S.O. 2001 c 25, as amended enables the Council to require owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such pools;

Now Therefore the Council of the Corporation of the Village of Merrickville-Wolford hereby enacts as follows:

Title

1. This By-law may be cited as the "Swimming Pool Enclosure By-law."

Definitions

2. In this By-law;
 - a) **Building** means any structure used or intended for supporting or sheltering any use or occupancy;
 - b) **Chief Official** means the Chief Building Official of the Corporation of the Village of Merrickville-Wolford;
 - c) **Corporation** means the Corporation of the Village of Merrickville-Wolford;
 - d) **Farm Pond** means any natural or artificial body of water used for the purposes of watering livestock;
 - e) **Permit** means permission or authorization in writing from the Chief Official to erect enclosures around swimming pools as regulated by this By-law; and
 - f) **Swimming Pool** means any in-ground pool or above-ground pool (hard sided and soft sided) containing water greater than 600 mm (2 feet) deep, or has the capacity to hold water of a depth greater than 600 mm (2 feet), which has been artificially created for the purpose of swimming, bathing, wading or reflecting; but does not include a farm pond as herein described.

General Requirements

3. Every owner of a privately-owned outdoor swimming pool shall ensure that an enclosure around such a pool is constructed and maintained according to the provisions of this By-law.
4. No person shall place water in a swimming pool in the Village of Merrickville-Wolford unless the prescribed fences and gates have been erected in accordance with the provisions of this By-law.
5. No person shall allow water to remain in a swimming pool in the Village of Merrickville-Wolford unless the prescribed fences and gates have been erected in accordance with the provisions of this By-law.
6. No person shall construct or place a swimming pool on his property in the Village of Merrickville-Wolford without first obtaining a swimming pool permit.

Application For Permit

7. To obtain a permit the owner shall file an application in writing by completing a prescribed form in the office of the Chief Official.
8. Except as otherwise permitted by the Chief Official, every application shall:
 - a) Identify and describe in detail the work to be covered by the permit for which an application is made,
 - b) Describe the land on which the pool is to be located by a description that will readily identify and locate the building lot,
 - c) Be accompanied by one (1) complete set of plans showing details of the enclosure as well as its relationship to lot lines, buildings and fences,
 - d) Be accompanied by the fee as prescribed by Section 11 hereof, and
 - e) State the names, addresses and telephone numbers of the owner and the contractor performing the work.
9. An application for a permit may be deemed to have been abandoned and cancelled six (6) months after the date of filing, unless such application is being seriously proceeded with.

Plans, Specifications and Information

10. Sufficient information shall be submitted with each application for a permit to enable the Chief Official to determine whether or not the proposed work will comply with this By-law.

Fee

11. A swimming pool enclosure permit fee shall be fifty (\$50.00) dollars, which is non-refundable.

Condition of Permit Issuance

12. Every swimming pool shall have an adequate enclosure erected around it in accordance with the following provisions of this Section:
 - a) At least 1.2 m (4 feet) in height and of a close-boarded or other approved design in order to reasonably deter children from climbing it to gain access to the fenced-in area; or
 - b) A chain link fence of at least 1.52 m (5 feet) in height; or
 - c) The side walls of an above-ground pool may be used as the enclosure, where they are hard sided and are at least 1.2 m (4 feet) above the surrounding grade and located at least 900 mm (3 feet) horizontally from any fixed object which could allow the walls to be climbed.
 - d) Decks, stairs and gates in and around the enclosure shall;
 - i. Provide protection equivalent to the enclosure,
 - ii. Be equipped with a self-closing and latching device and lock at the top and inside of the gate, and,
 - iii. Be locked except when the enclosed area is actually being used and supervised.
 - e) Barbed wire, page-wire or fencing energized by electrical current shall not be used as an enclosure for the swimming pool.

- f) Where a wall of a building is used as part of an enclosure, all doors located in the wall of the building shall be equipped with self-closing, self-latching and locking devices.
 - g) Any pool enclosure being comprised of chain-link fencing of lesser height than specified herein having been installed prior to the date of passing of this By-law, shall be deemed to be in conformity with the By-law.
 - h) Notwithstanding any other provision hereof to the contrary, where a pool enclosure was legally erected in conformity with the previous applicable by-law, such enclosures shall be deemed to be in conformity with this By-law. However, where a pool exists on the date of passage of this By-law, without an enclosure, it shall be required to comply with the enclosure requirements of this By-law, within 30 days of this By-law coming into effect.
13. There shall be a minimum distance of 1.2 m (four feet) between the enclosure and any part of a below grade swimming pool unless approved otherwise by the Chief Official.
 14. Where a pool is installed or an enclosure is not erected or maintained, in accordance with the provisions of this By-law, the Chief Official shall send a notice by registered mail or by hand to the owner of the land on which the swimming pool is located, at his last known address requiring him to make the enclosure conform to the requirements of this By-law and the notice shall specify the time allowed for compliance.
 15.
 - a) Where a notice has been sent by the Chief Official pursuant to Section 14 hereof, and the requirements of the notice have not been complied with, the Chief Official may cause the work to be done and the Corporation may recover such expense by action or in like manner as municipal taxes.
 - b) A copy of an invoice for charges and expenses referred to in subsection (a) hereof, together with a certificate by the Treasurer that:
 - i. The invoice has been sent to the persons liable to pay same,
 - ii. No payment or insufficient payment has been received in respect of the invoice, and
 - iii. Payment of the invoice is overdue, shall be sufficient authority to enter the amount of the unpaid balance of the invoice on the Collector's Roll.

Penalties

16. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.
17. When a person has been convicted of an offence under this By-law, any court of competent jurisdiction may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.
18. By-law 1098 of the former Township of Wolford and By-law 10-77 of the former Village of Merrickville are hereby repealed.

READ a first and second time this 9th day of October, 2007

READ a third and final time and passed this 9th day of October, 2007.

J. Douglas Struthers, Mayor

Jill E. Eagle, Clerk