

THE CORPORATION OF THE VILLAGE OF CASSELMAN

BY-LAW NUMBER: 2007-204

SWIMMING POOL ENCLOSURE BY-LAW

BEING A BY-LAW of The Corporation of the Village of Casselman respecting the enclosure for privately-owned outdoor swimming pools and spas.

WHEREAS *Subsection 1 and 7 of Section 11 and Section 98 of The Municipal Act, 2001, S.O. Chapter 25 as amended*, provides that the Council of a Municipality may pass by-laws for requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates, for prohibiting persons from placing water in privately owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit for any such fences or gates; and,

WHEREAS The Corporation of The Village of Casselman deems it desirable to do so.

NOW THEREFORE the Council of The Corporation of the Village of Casselman **ENACTS** as follows:

1. **SHORT TITLE:**

1.1 This by-law may be cited as the "*Swimming Pool Enclosure By-law*".

2. **DEFINITIONS:**

2.1 In This by-law:

- 2.1.1 **"Municipality"** shall mean The Corporation of The Village of Casselman.
- 2.1.2 **"Permit"** shall mean permission or authorization given in writing by the Chief Building Official to erect enclosures around swimming pools and spas as regulated in this by-law.
- 2.1.3 **"Spa"** means a hot tub of varied forms, provided with hydro-jets and holes by which escapes compressed air, the water of which is warmed and in continuous movement.
- 2.1.4 **"Swimming Pool"** shall mean an artificial privately-owned outdoor, above or in-ground pool of water for bathing, swimming, wading or reflecting and which may contain water to a depth exceeding twenty four (24) inches at any point and includes inflatable swimming pools. A swimming pool does not include:
- (a) a beach;
 - (b) a natural swimming area or,
 - (c) a water garden.
- 2.1.5 **"Owner"** shall mean the registered owner of the land and includes a lessee, mortgagee in possession, and the person in charge of the property.
- 2.1.6 **"Chief Building Official"** shall mean the Chief Building Official appointed by the Council of The Corporation of The Village of Casselman.
- 2.1.7 **"By-Law Enforcement Officer"** shall mean an Officer or an employee of the Corporation of The Village of Casselman By-Law Department having the mandate to enforce this by-law and including the responsibility for pursuits towards the persons who contravene any provisions of this by-law.
- 2.1.8 **"Corporation"** shall mean the Corporation of the Village of Casselman.

3. GENERAL REQUIREMENTS:

- 3.1 Every owner of a privately-owned outdoor swimming pool or a spa shall ensure that an enclosure around such a pool or spa is constructed and maintained according to the provisions of this by-law.
- 3.2 No person shall place water in a swimming pool or in a spa in the Municipality unless the prescribed fences and gates or, for a maximum period of thirty days, a temporary fence as approved by the Chief Building Official, have been erected in accordance with the provisions of this by-law.
- 3.3 No person shall allow water to remain in a swimming pool or in a spa in the Municipality unless the prescribed fences and gates or temporary fence has been erected in accordance with the provisions of this by-law.
- 3.4 Privately owned outdoor swimming pools that can contain twenty four (24) inches of water or less have to comply with the provisions of this by-law unless it is emptied of its water after each use.

4. PERMITS:

- 4.1 No person shall construct or install a privately-owned swimming pool or a spa, or have another individual build or install a privately-owned swimming pool or a spa, without first filling an application form in order to obtain a swimming pool enclosure permit from the Building Department of the Municipality.

5. APPLICATION FOR PERMIT:

- 5.1 To obtain a permit the owner shall file an application in writing by completing a prescribed form available in the office of the Chief Building

Official.

- 5.2 Except as otherwise permitted by the Chief Building Official, every applicant shall:
- 5.2.1 identify and describe in detail the work to be covered by the permit for which an application is made.
 - 5.2.2 describe the land on which the pool or spa is to be located by a description that will readily identify and locate the building lot.
 - 5.2.3 be accompanied by one complete set of plans showing details of the enclosure and deck as well as their relationship to lot lines, buildings and fences.
 - 5.2.4 be accompanied by the fee as prescribed in Section 6 hereof, and
 - 5.2.5 state the names, addresses and telephone numbers of the owner, and the contractor performing the work.
 - 5.2.6 An application for a permit may be deemed to have been abandoned and canceled six (6) months after the date of filing, unless such application is being seriously proceeded with.
 - 5.2.7 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed work will comply with this by-law or any other applicable law or regulation.

6. FEES:

- 6.1 The fee for a swimming pool enclosure permit shall be \$40.00.
- 6.2 If the installation of a swimming pool or a spa includes a deck or other structure which requires the issuance of a building permit under the provisions of the Ontario Building Code, the fee for the swimming pool enclosure permit shall be \$0.00.

7. CONDITIONS OF PERMIT ISSUANCE:

- 7.1 Except as provided for spas in subsection 7.11, every swimming pool and spa shall have an adequate enclosure erected around it in accordance with the provisions of subsection 7.2 to subsection 7.10 hereof inclusive.
- 7.2 Every enclosure for a swimming pool shall be of a close-boarded, chain link or other approved design with maximum openings of 4 inches including the space below the fence, to reasonably deter children from climbing it to gain access to the fence-in area.
- 7.3 In the case of an in ground pool, the enclosure shall be at least 5 feet in height and in the case of an above ground pool or spa, if the walls of the pool or spa are less than 4 feet 4 inches high above the grade for a distance of at least 24 inches from the wall, the enclosure shall be at least 4 feet 4 inches in height or the walls of a pool can be extended with an approved manufactured fence for a total height of at least 4 feet 4 inches above the grade.
- 7.4 Gates in the enclosure shall:
 - 7.4.1 Provide protection equivalent to the enclosure.
 - 7.4.2 Be at least the same height as the enclosure.
 - 7.4.3 Be equipped with a self-closing and latching device and lock at the upper inside of the gate.
 - 7.4.4 Be locked except when the enclosed area is actually being used and supervised.
- 7.5 Barbed wire or energized fencing shall not be used as an enclosure for a swimming pool or a spa.
- 7.6 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 locking devices.
- 7.7 Equipment or materials cannot be located, stored or kept within (4) feet from the pool to prevent climbing.

- 7.8 Decks or platforms associated with pools shall comply with the requirements of the Ontario Building Code and the access to such decks or platforms must be adequately enclosed in accordance with subsections 7.2 to 7.6 hereof inclusive.
- 7.9 There shall be a minimum distance of four (4) feet between the enclosure and any part of an in ground swimming pool unless approved otherwise by the Chief Building Official.
- 7.10 Swimming pools and spas shall be located on the property to meet the minimum setback requirements of the Municipality's Zoning By-Law.
- 7.11 No person shall install a spa without it being completely surrounded with a fence, according to the requirements of a swimming pool enclosure or be provided with a lid having locks. The lid must be put back in place and locked as soon as the bathing is ended.
- 7.12 All electrical work involved in the installation of a swimming pool or a spa has to be done in accordance with the provisions of the Ontario Electrical Code. All electrical outlets located outside have to be GFCI protected.

8. NOTICES:

- 8.1 When an enclosure is not erected or maintained in accordance with the provision of this by-law, a notice shall be sent by registered mail or by hand to the owner of the land on which the swimming pool or the spa is located at his (her) last known address requiring him (her) to make the enclosure conform to the requirements of this by-law and the notice shall specify the time allowed for compliance.
- 8.2 Where a notice has been sent pursuant to Section 8.1, and the requirements of the notice have not been complied with, the By-Law Enforcement Officer may cause the work to be done or the water to be removed from the swimming pool or the spa and the cost of the work or

the removal of the water shall be at the expense of the owner.

- 8.3 When the By-Law Enforcement Officer causes the work to be done pursuant to subsection 8.2, the Corporation shall have a lien for any amount expended by or on behalf of the Corporation and for an administrative fee of ten (10%) percent of any amount expended by or on behalf of the Corporation, and the certificate of the Clerk of the Corporation as to the total amount expended shall be admissible in evidence as prima facie proof of the total amount expended and such total amount together with the administrative fee shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in like manner and with the same remedies as real property taxes.
- 8.4 Before the certificate of the Clerk of the Corporation is issued under subsection 8.3, an interim certificate shall be delivered to the owner of the property that is subject to the lien, as well as to all prior mortgagees or other encumbrancers and the affected owner, mortgagees or other encumbrancers shall have two (2) weeks from the date of receipt of the interim certificate to appeal the amount shown thereon to the Council of the Corporation.

9. **EXISTING POOLS:**

- 9.1 The provisions of this By-Law shall also apply to swimming pools, spas and swimming pool enclosures which have been constructed or installed prior to the passing of this By-Law unless they were legally installed prior to the passing of this By-Law.

10. **PENALTIES:**

- 10.1 Every person who contravenes any of the provisions of this by-law is guilty

of an offence and on conviction thereof shall forfeit, and pay a penalty for each such offence and every such penalty shall be recoverable under the Provincial Offences Act. R.S.O. 1990, chapter P.33 and amendments thereto.

- 10.2 When a person has been convicted of an offence under this by-law, any court of competent jurisdiction thereafter, 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.

11. ENFORCEMENT:

- 11.1 The Building Department of the Municipality is responsible for issuing swimming pool enclosure permits and for their inspection.
- 11.2 The By-Law Department of the Municipality is responsible for pursuits towards all persons who contravene any provisions of this By-Law.

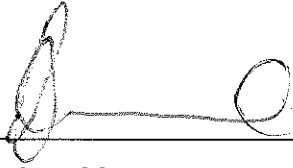
12. SEVERANCE:

- 12.1 The requirements of this by-law are severable. If any requirements of this by-law are held invalid, the application of such requirements to other circumstances and the remainder of this by-law shall not be affected.

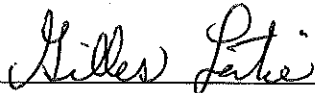
13. ENACTMENT:

- 13.1 This by-law shall come into force on the date of its adoption and shall take effect on that date.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY ADOPTED this 12th day
of June 2007.



Conrad Lamadeleine, Mayor



Gilles Lortie, A.M.C.T.

Clerk