

PROPERTY MAINTENANCE

Chapter 591 FENCES - SWIMMING POOLS

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Article 1 INTERPRETATION

591.1.1 Above ground privately-owned swimming pool

"above ground privately-owned swimming pool" means a structure which is capable of retaining a body of water located outdoors on privately-owned property in which the depth at any point can exceed 30 cm (12 inches) and is used or is capable of being used for swimming, wading, diving or bathing and the outside wall of the said pool is elevated at least 1.6 metres (5 feet) above the grade abutting such wall.

591.1.2 Backflow preventer - defined

"backflow preventer" means the use of an air gap to prevent backflow, or an atmospheric or pressure type vacuum breaker, or any other device, used to prevent backflow, which device is certified by the Canadian Standards Association to CSA Standard B.64." (94-112)

591.1.3 Building Inspector - defined

"Building Inspector" means the Chief Building Official and any building inspectors appointed by by-law of Council of The Corporation of the City of Peterborough pursuant to the *Building Code Act*, as amended.

591.1.4 Enclosure - defined

"enclosure" means a fence, wall or other structure, including doors and gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

591.1.5 Gate - defined

"gate" means an entrance barrier closing the opening to a pool area.

591.1.6 Owner - defined

"owner" means the registered title holder or any person in possession of privately-owned property.

591.1.7 Person - defined

"person" includes an owner, lessee, tenant or other person in possession of property upon which a privately-owned outdoor swimming pool is located.

591.1.8 Pool area - defined

"pool area" means that area of land abutting the pool extending from the edge of said pool a distance of 1.2 metres (4 feet).

591.1.9 Privately-owned outdoor swimming pool - defined
“privately-owned outdoor swimming pool” means any body of water or pool of water located outdoors on privately-owned property in which the depth at any point can exceed 30 cm (12 inches) and is used or is capable of being used for swimming, wading, diving, or bathing; but does not include above ground privately-owned swimming pool.

591.1.10 Privately-owned property - defined
“privately-owned property” means any property located wholly or partly within the City of Peterborough and the said property is not owned by The Corporation of the City of Peterborough.

Article 2 GENERAL PROVISIONS

591.2.1 Construction - maintenance - responsibilities
This Chapter and the obligations thereunder, as it would pertain to any owner of land on which a privately-owned outdoor swimming pool is located or erected, or any person who fills, or partially fills, a privately-owned outdoor swimming pool with water, shall specify obligations as it would pertain to the construction and maintenance of fences and enclosures that are erected on any date after December 31, 1987.

591.2.2 Enclosures - maintenance - erection - after enactment
The obligations to appropriately maintain an enclosure as required by this Chapter shall apply to all enclosures erected or placed on any property within the City of Peterborough on any date after December 31, 1987.

591.2.3 Fences - prior to enactment - conditions
The provisions of this Chapter shall not apply to a fence or enclosure erected prior to January 1st, 1988, provided that such fence or enclosure complies with the provisions of By-law 1969-53, as amended, and that such fences or enclosures are maintained in accordance with the provisions of By-law 1969-53, as amended.

591.2.4 By-laws - other - application
By-law 1969-53 and section 11 of By-law 1982-3 of The Corporation of the City of Peterborough, shall remain in full force and effect as it would pertain to the obligations recited thereunder in regard to enclosures and fences constructed prior to January 1st, 1988.

Article 3**FENCE - ENCLOSURE****591.3.1 Around entire pool - maintained - good order**

Any owner of land on which a privately-owned outdoor swimming pool is located or erected, or proposed to be located or erected, shall erect and maintain, in good order, an enclosure around the entire pool area in accordance with the provisions of this Chapter.

591.3.2 Pool - filled - partially - fully

No person shall fill or partially fill a privately-owned outdoor swimming pool with water or allow water to remain therein unless the required enclosure prescribed by this Chapter has been provided.

591.3.3 Height - minimum - vertical - from grade - required

Any fence to enclose a pool area shall extend from grade level to a minimum vertical height of:

- (a) 1.22 metres (4'0") in the case of a privately-owned outdoor swimming pool serving a detached or semi-detached dwelling unit or a multiple family development of not more than four (4) dwelling units;
- (b) 1.83 metres (6'0") in the case of a privately-owned outdoor swimming pool serving a multiple family development containing more than four (4) dwelling units; or a commercial development, such as a hotel, motel, swimming pool sales display or a club.

591.3.4 Wall - part of enclosure - permitted - exceptions

The wall of a building may form part of the required enclosure, except where:

- (a) the main building entrance is located within the pool enclosure; or
- (b) the service entrance to a multiple occupancy building containing more than four (4) dwelling units is located within the pool enclosure; or
- (c) a utility meter or furnace oil filler pipe is located within the pool enclosure.

591.3.5 Exterior - no attachments - prevention - of climbing

The required pool enclosure shall have no attachments on the exterior face thereof such as horizontal or diagonal bracing, horizontal rails or other appurtenances which would facilitate climbing.

591.3.6 Construction - wood - chain link - other

A fence or its equivalent, forming part of a pool enclosure shall be of vertical boarded wood construction, chain link construction or of other materials and construction as provided for in Sections 591.3.7 through 591.3.17 inclusive.

591.3.7 Chain link - diamond mesh - maximum size

A fence or its equivalent, forming part of a pool enclosure, if of chain link construction, shall be not greater than 50 mm (2") diamond mesh.

591.3.8 Chain link - galvanized steel - coated - minimum gauge

A fence or its equivalent, forming part of a pool enclosure, if of chain link construction, shall be constructed of galvanized steel wire not less than No.12 gauge or of a minimum No.14 gauge steel wire with a vinyl or other approved coating forming a total thickness equivalent to No.12 gauge galvanized wire.

591.3.9 Chain link - supports - specifications

A fence or its equivalent, forming part of a pool enclosure, if of chain link construction, shall be supported by at least 38 mm (1.5") diameter galvanized steel posts each covered by a minimum 51 mm (2") of concrete from grade to a minimum of 0.91 metres (3') below grade such posts to be spaced not more than 3.0 metres (10') apart.

"591.3.10 Chain link - top - bottom - supports - required

A fence or its equivalent, forming part of a pool enclosure, if of chain link construction, shall have top and bottom horizontal rails of 32 mm (1.25") minimum diameter galvanized steel, except that minimum 9 gauge galvanized steel wire or 1 gauge wire with vinyl or other approved coating, forming a total thickness equivalent to 9 gauge galvanized wire, may be substituted for a bottom horizontal rail." (94-11:

591.3.11 Chain link - vinyl - substituted - for galvanized

A vinyl or other approved coating may be substituted for the galvanized coating on a fence of chain link construction.

591.3.12 Wood - vertical boarding - prevention of climbing

A fence or its equivalent, forming part of a pool enclosure, if of wood construction, shall have the vertical boarding attached to supporting member, all of which are arranged in such a manner so as not to facilitate climbing from the outside.

591.3.13 Wood - board dimensions - spacing - requirements

The vertical boards on a fence of wood construction shall be no less than 25 mm x 102 mm (1" x 4") nominal dimensions spaced not more than 38 mm (1.5") apart.

591.3.14 Wood - supports - size - depth - spacing

A fence or its equivalent, forming part of a pool enclosure, if of wood construction, shall be supported by a minimum of 102 mm (4") square or diameter wooden posts, nominal dimensions, spaced not more than 2.5 metres (8') on centres securely embedded to minimum of 0.91 metres (3') below grade.

591.3.15 Wood - posts - below grade - treated

That portion of the wood post below grade on a fence of wood construction shall be treated with a wood preservative if the same is not "pressure treated".

591.3.16 Wood - top - bottom - supports - required

Top and bottom horizontal rails shall be provided of 51 mm x 102 mm (2" x 4") minimum nominal dimensions on a fence of wood construction.

591.3.17 Barbed wire - electric - dangerous - prohibited

A fence or its equivalent, forming part of a pool enclosure, shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence.

Article 4**GATES - ENTRANCES****591.4.1 Gate - height - construction**

Gates which form a part of the fence around a privately-owned outdoor swimming pool shall be equivalent to such height and of such construction equivalent to that required for the fence.

591.4.2 Gate - supported - substantial hinges

Gates which form a part of the fence around a privately-owned outdoor swimming pool shall be supported on substantial hinges.

591.4.3 Gate - self-closing - latching - inside - minimum height

Gates which form a part of the fence around a privately-owned outdoor swimming pool shall be self-closing and self-latching with the latching device at the top of and on the inside of the gate or a minimum of 3'6" above grade.

591.4.4 Gates - 2 adjacent - 1 fixed - or centre post

Where two gates are provided adjacent to one another, one gate shall be permanently fixed in the closed position or a permanent centre post shall be provided for the gates to close against and latch.

591.4.5 Doors - heights - construction - safe - rigid

Doors which form a part of the pool enclosure but which do not lead directly from a private dwelling unit shall be of such height and such construction as will provide a degree of safety and rigidity equivalent to or greater than that of the required fence.

591.4.6 Doors - supported - substantial hinges

Doors which form a part of the pool enclosure but which do not lead directly from a private dwelling unit shall be supported on substantial hinges.

591.4.7 Doors - self-closing - latching - inside - minimum height

Doors which form a part of the pool enclosure but which do not lead directly from a private dwelling unit shall be self-closing and self-latching with the latching device located at least 153 cm (60") above the bottom of the door.

591.4.8 Locked - when not supervised

Every person in possession of any lands on which a privately-owned outdoor swimming pool or an above ground privately-owned swimming pool is located shall ensure that all entrances to the pool area which form part of the swimming pool enclosure whether they be doors, windows, gates or other openings to the pool area; shall be kept locked at any time when a responsible person is not present and supervising the pool.

**Article 5
PERMITS****591.5.1 Required - excavation - construction - fee**

No person shall excavate for, erect or construction a pool or a fence around a privately-owned outdoor swimming pool unless and until a permit therefore has been issued for a prescribed fee of \$50.00 from the Building Inspector.

591.5.2 Application - plans - information - requirements

Plans submitted with an application to construct or erect such fence shall show the location of the swimming pool in relation to the property boundary and to adjoining buildings and shall provide full details of all fencing required to be erected.

Article 6**ABOVE GROUND SWIMMING POOLS****591.6.1 Fence - not required - pool wall - 5 feet above grade**

Notwithstanding anything contained in this Chapter, an enclosure fence shall not be required around an above ground privately-owned swimming pool where the outside wall of such pool is elevated at least 1.6 metres (5 feet) above the grade of the ground abutting such walls.

591.6.2 Entrance - gate - self-closing - latching - height

Each and every entrance to an above ground pool shall be protected by a gate at least 1.3 metres (4 feet) height and have self-closing and self-latching devices with a latching device at the top of and on the inside of the gate.

591.6.3 Gates - 2 adjacent - 1 fixed - or centre post

Where two gates are provided adjacent to one another, one gate shall be permanently fixed in the closed position or a permanent centre post shall be provided for both the gates to close against and latch.

Article 7**PLUMBING FACILITIES****591.7.1 Connection - backflow preventer - water supply - sewer**

Where a swimming pool is connected to a plumbing system, the potable water supply to the pool shall be protected by a backflow preventer and the drain of the pool shall be protected from the backup of sanitary sewage into the pool.

591.7.2 Hose bib - for filling - backflow prevented - required

Any hose bib used to fill a pool shall be protected by a backflow preventer. By-law 1987-178, 8 September, 1987.

Article 8
ENFORCEMENT

591.8.1 Fine - for contravention

Every person who contravenes this Chapter is guilty of an offence and is liable to the penalty, as prescribed by applicable law, for each offence. By-law 91-174, 24 June, 1991.

591.8.2 Continuation - repetition - prohibited

When a person has been convicted of an offence under this Chapter, the Provincial Offences Court or 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.

Article 9
ENACTMENT

591.9.1 Effective date

This Chapter shall come into full force and effect on the first day of January, 1988. By-law 1987-178, 8 September, 1987.

Note: Except where otherwise expressly provided in this Chapter, and pursuant to other provincial statutes, such as the *Planning Act*, the maximum fine for violation of the Code is specified in section 62 of the *Provincial Offences Act*, R.S.O. 1980, c. 400, which indicates that a party guilty of an offence is liable to a fine of not more than five thousand dollars (\$5000.00).