



# TOWNSHIP OF ASPHODEL-NORWOOD

## By-Law 2006-24

### ***BEING A BY-LAW TO ESTABLISH CERTAIN PROVISIONS WITH RESPECT TO THE INSTALLATION OF SWIMMING POOLS AND ENCLOSURES***

**WHEREAS** Subsection 130 of the Municipal Act R.S.O. 2001, c. 25, as amended, enables the Council to pass by-laws relating to the safety and well-being of the inhabitants of the municipality; and

Section 11(2) of the Municipal Act 2001, R.S.O. 2001 c.25, lower tier municipalities may pass by-laws respecting structures including fences and signs.

**NOW THEREFORE** the Council of the Corporation of the Township of Asphodel-Norwood hereby enacts as follows:

#### **TITLE**

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

#### **DEFINITIONS**

2. In this by-law:
  - (a) "Chief Building Official" means the agent or employee appointed by the Corporation of the Township of Asphodel-Norwood to enforce the provisions of the Building Code Act and this by-law, and includes employees or authorized assistants acting under his /her direction.
  - (b) "Corporation" means the Corporation of the Township of Asphodel-Norwood.
  - (c) "Enclosure" means any combination of fence, wall, or other structure, including gates, surrounding a pool to restrict access.
  - (d) "Farm Pond" means any natural or artificial body of water used for the purposes of providing water to livestock or for irrigation of crops.
  - (e) "Grade" means the elevation of the finished surfaces immediately surrounding the outside of the enclosure.
  - (f) "Guard" means a guard constructed in accordance with the Ontario Building Code.
  - (g) "hydro-massage pool" means those pools commonly referred to as a hot tub, whirlpool tub, jacuzzi or spa.
  - (h) "Maintain" means to keep a swimming pool enclosure in a condition that meets the requirements of this by-law and to preserve the condition of the swimming pool enclosure from failure or decline in order to ensure safety and strength.
  - (i) "Permit" means permission or authorization in writing from the Chief Building Official to erect enclosures around swimming pools as regulated by this by-law.
  - (j) "Pool Fence" means a vertical barrier constructed of chain-link, wood, fibreglass, stone, metal or other material to enclose an area. A pool fence may include a gate.
  - (k) "Gate" means part of a fence that is removable, swinging, sliding or otherwise used as a barrier to block or close an access. A gate may include a door.
  - (l) "Self-Latching Device" means an automatic locking device attached

to a fence, gate or door which prevents access from the outside.

- (m) “Self-Closing” means a device or combination of devices, spring or hinges capable of returning the enclosure to a closed and latched position after each use.
- (n) “Storm Water Management System” means any man made or natural facility designed for the treatment, retention, infiltration or control of storm water, including drainage works and retention ponds.
- (o) “Swimming Pool” means any structure, base, chamber or tank containing or intended to contain a body of water, located outdoors on privately owned property, in which the depth of the water at any point can exceed 457 mm (18”), and is used or is capable of being used for swimming, wading, diving, or bathing and for above ground pools the outside wall of said pool is elevated at least 1.5 metres (4 feet) above the grade abutting such wall; but, shall not include a storm water management system, facilities and ponds used for water hazards or irrigation at a golf course, hot tubs, facilities for the purposes of providing water to livestock or for irrigation of crops which are associated with and on land devoted to the practice of farming.
- (p) “Owner” includes lessee, tenant or person in possession of property on which a privately owned outdoor swimming pool is located.
- (q) “Pool Fence” means a vertical barrier constructed of chain-link, wood, fibreglass, stone, metal or other material to enclose an area completely surrounding a pool. A pool fence may include a gate

#### **GENERAL REQUIREMENTS**

- 3. Every owner of an 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 pool in the Township of Asphodel-Norwood unless an enclosure has been erected in accordance with the provisions of this by-law. The Municipality must be contacted for an inspection of an enclosure prior to water being placed in the pool.
- 5. No person shall allow water to remain in a pool in the Township of Asphodel-Norwood unless an enclosure has been erected in accordance with the provisions of this by-law.

#### **PERMIT**

- 6. No person shall construct or install or cause to be constructed or installed a swimming pool without having first obtained a pool permit from the Township of Asphodel-Norwood.
- 7. To obtain a permit the owner shall file an application in writing by completing a prescribed form available at the office of the Chief Building Official.
- 8. When installation is complete including enclosure and pool a photograph must be taken and be provided to the Chief Building Official to accompany the permit.
- 9. Despite Section 6, a permit is not required in the case of a pool which has been dismantled and is being reconstructed in the same position and the same manner in which it was previously located provided that:
  - (a) a permit was obtained for the original installation,

- (b) the reinstallation meets the requirements of all currently applicable by-laws, and
  - (c) the pool enclosure has remained in place and has not been modified since the original installation.
  - (d) A water charge will be applied on an annual basis to owners of all pools located at dwellings on municipal water systems with the exception of any dwelling in the Township which is metered for water use. (attached as Schedule “A” Fees)
10. Except as otherwise permitted by the Chief Building 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 two (2) complete sets 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 established in Schedule “A” (Classes of Permits and Permit Fees) of By-law 2005-46, as amended; and
  - (e) state the names, addresses and telephone numbers of the owner and contractor performing the work.
11. An application for a permit may be deemed to have been abandoned and cancelled six (6) months after the date of filing, unless there is substantial evidence that action is being taken to complete the permit requirements; and any extension will be at the discretion of the Chief Building Official and/or designate.
12. 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.
13. All pool permit fees are as prescribed on Schedule “A” FEES as attached to this By-law.
14. In addition to the fee for a pool permit if applicable is the cost of a prescribed deck permit fee as prescribed in the Municipal Building By-law.

**MANDATORY POOL ENCLOSURES** (see sample diagrams attached as Schedule “B”)

15. Any exterior access points within a pool enclosure leading to a terrace, patio, steps or deck adjoining a swimming pool must be closed by a door or a gate. This door or gate must be self-closing, self-latching, and be kept locked when the pool is unoccupied or without supervision.
16. When an enclosure is not erected or maintained, in accordance with the provisions of this by-law, the Chief Building Official shall send a notice by registered mail or by personal delivery to the owner of the land on which the pool is located, at the last known address requiring the owner to make the enclosure conform to the requirements of this by-law and the notice shall specify the time allowed for compliance.
17. Where a notice has been sent by the Chief Building Official pursuant to Section 16, and the requirements of the notice have not been complied with, the Corporation may cause an enclosure to be erected or otherwise made safe and/or drained of water and the cost of the work shall be at the expense of the owner.

**REQUIREMENTS RELATING TO A POOL FENCE, GATES, DOORS AND DECKS**

18. Pool fences forming part of a pool enclosure must be constructed and

maintained in accordance with the following requirements:  
(refer to sample diagrams attached as Schedule “B”)

- (a) The pool fence must be a minimum height of 1.22 metres (4’ feet) proportionate to the adjacent ground level, without exceeding the maximum height established in Fence By-law 2003-4. Any fence to enclose a pool area shall extend from grade level to a minimum vertical height of:
  - i) 1.22 metres (4 feet) 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 (4) dwelling units;
  - ii) 1.83 metres (6 feet) in the case of 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.
  
- (b) The pool fence that forms part of this enclosure:
  - (i) must be constructed solidly, capable of supporting a load similar to that of requirements for guards as described in the Ontario Building Code;
  - (ii) pool fences and gates must be constructed in such a manner as to reasonably deter children from climbing;
  - (iii) must not have rails or any other horizontal or diagonal support or exterior fixtures that might facilitate climbing;
  
  - (iv) must not have openings that would permit the passage of a spherical object with a diameter of 100 mm (4” inches) or more, except that chain link fences shall be limited to 38 mm (1½” inches) openings;
  - (v) must not contain a mechanism that permits electric current to run through the fence;
  - (vi) must not be constructed with snow fence, barb wire, sharp objects or any other dangerous characteristics;
  - (vii) the distance between ground level and the pool fence must not exceed 100 mm (4 inches);
  - (viii) be located not closer than 1.21 m (4’ feet) to a pool.
  
- (c) Gates forming part of a pool fence shall be:
  - (i) of similar construction as for the pool fence;
  - (ii) of the same height or higher than the pool fence;
  - (iii) supported with strong hinges;
  - (iv) equipped with self-closing and self-latching devices. The self-latching device must be installed at more than 1.2 metre (4 feet) high proportionate to the ground level or adjacent floor or step; and
  - (v) be lockable.
  
- (d) Gates forming part of a guard on a deck, steps or raised patio must:
  - (i) be of rigid construction, capable of supporting loads as described for guards in the Ontario Building Code;
  - (ii) be a minimum height of 10.70 mm (42 inches) equal to the adjacent floor or to the top of the last step adjacent to the

- gate;
- (iii) be constructed with two vertical extensions of similar construction at a minimum width of 0.3 metre (1 foot) on each side;
- (iv) be supported with hinges;
- (v) be equipped with a self-closing device and self-latching device. Such device must be installed at the top and inside of the gate;
- (vi) be constructed without horizontal or diagonal members which could facilitate climbing; and
- (vii) Lockable gate shall be incorporated as part of the deck and guard system;
- (viii) deck and guard construction shall comply with regulations as described in the *Building Code Act*.

### **POOL EQUIPMENT**

19. A swimming pool's pumping, filtration or heating equipment must be situated:
- (a) at least 1.21 metres (4 feet) from a interior side yard lot line or from a back yard lot line;
  - (b) pool must be located in rear or side yard;
  - (c) at least 1.2 metres (4 feet) from the pool, unless it is installed under a deck adjacent to the pool or located within the pool enclosure; or
  - (d) in such a manner as to not facilitate climbing to access the pool;
  - (e) No person shall place or store materials against the outside of a swimming pool fence.

### **ABOVE-GROUND POOL (solid wall acting as an enclosure)**

20. (1) Above-ground pool vertical walls can be considered as a pool enclosure provided that such wall is at least 1.21 metres (4' feet) in height or be equipped with a handrail and guards in compliance with this by-law. Such required height shall be measured from the highest finished grade within a horizontal distance of 1.21 metres (4' feet) to the pool.
- (2) An above-ground pool totally or partially surrounded by a walkway adjacent to the pool's ledge, must be surrounded by a guard of a minimum height of 1.21 metres (3 feet) from the top of the deck. Also, this walkway must not be built in a manner that could facilitate climbing.
- (3) No guards may be added to the top of a pool wall that does not meet the requirements for a 1.2 metre (4 foot) pool fence as described in Section 18.

### **HYDRO-MASSAGE POOL**

- (1) An enclosure for a structure known as a hydro-massage pool, hot tub, whirlpool or spa must include a secure cover of rigid material locked in place over the opening at all times when the structure is not occupied, and no person shall leave a hot tub, whirlpool, or spa without first locking the cover in place to prevent access when the structure is not occupied. Where no cover and lock is supplied and/or evident, owner must comply with pool enclosure By-law criteria.

### **GROUND ELEVATION**

21. (1) The installation of a swimming pool or pool fence shall not alter in

any way the existing stormwater drainage patterns of the premises.

- (2) The installation shall include facilities to effectively conduct backwash water to a storm sewer, where available, or a drainage ditch, in such a manner as to prevent damage to adjacent properties.

### **CONTRAVENTION**

22. Every person who contravenes any provisions of this by-law or causes or permits any such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.00 exclusive of costs pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990,c. P.33

### **TRANSITION**

- 23.(1) Above ground pools in excess of 1.21 metres (4' feet) above grade erected prior to the passage of this By-law need not comply with the provision of this By-law, provided that:
  - (a) The exterior side of the swimming pool structure and the outside face of any guard are constructed in a manner that will not facilitate climbing;
  - (b) A guard of not less than .914 metres (3' feet) in height is provided around any platform or deck;
  - (c) The combined height of the exterior sides of the swimming pool structure and any guard attached thereto is a minimum of 1.21 metres (4' feet) and the maximum of 2.43 metres (8' feet), the height above adjacent grade; and;
  - (d) The outside face of a pool structure shall be located at least 1.21 metres (4' feet) from any lot line.
- (2) Any pool erected without a pool fence must comply with the provisions of this by-law.
- (3) Any owner having a pool fence or pool enclosure which was not lawfully erected or having an above-ground pool erected without a pool fence, must comply with this By-law prior to the 2006 pool season.
- (4) When a pool fence or pool enclosure is replaced, it must comply with this by-law.
- (5) With respect to temporary pools that are dismantled in the Fall of any given year, no additional permit is required after the issuance of the initial permit provided that the size, shape and location of the pool remain the same.
- (6) Nothing in this by-law shall prevent the continued use and maintenance of a fence as part of an enclosure if such fence was lawfully erected in conformity with the provisions of a previous Swimming Pool Enclosure By-law of and old municipality, and is used

### **ADMINISTRATION AND ENFORCEMENT**

24. The Chief Building Official and/or designate is responsible for the administration and enforcement of this by-law.

### **GENERAL PROVISIONS**

25. (1) The provisions of this By-law shall apply to all lands and premises within the Corporation of the Township of Asphodel-Norwood.
- (2) Should any section of this By-law be declared invalid by a court of competent jurisdiction, such Section shall be construed as being severed from this By-law and the remainder of this By-law shall continue in full force and effect.
- (3) The provisions of this By-law shall come into force and effect upon third reading hereof.

26. That By-law 1998-39 and By-law 2002-32 of the Township of Asphodel-Norwood and all of their amendments, are hereby repealed in their entirety.

27. That this by-law shall come into force and effect on May 1, 2006.

By-Law read a first and second time this 3<sup>rd</sup> day of April 2006.

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Douglas J. Percy, Reeve

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Lorraine Brace, Clerk

By-Law read a third time and passed this 17<sup>th</sup> day of April 2006.

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Douglas J. Percy, Reeve

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Lorraine Brace, Clerk

Schedule "A"

**POOL PERMIT & RELATED FEES**

**Permit fee to construct a pool and enclosure around a pool**      **\$90.00**  
*(includes administration fee)*

**Permit fee to construct a pool**      **\$45.00 + (deck fee)**  
**(with a deck permit fee as prescribed under**  
**Building Fees By-law and is based on square footage of deck)**

**Annual Water (Pool Filling Fee)**  
**for Norwood municipal water users only**      **\$ 50.00/per year (will be applied**  
**to residents July Water Utility Billing)**

*\*Trentview Estates and any other water metered dwellings are excluded as these municipal water users have water meters installed to monitor use.*