

CORPORATION OF THE TOWNSHIP OF AUGUSTA

BY-LAW NUMBER 2537

BEING A BY-LAW TO REQUIRE THE ERECTION AND MAINTENANCE OF FENCES AND GATES AROUND PRIVATELY OWNED OUTDOOR SWIMMING POOLS.

WHEREAS the Township of Augusta has deemed it expedient to pass a by-law requiring the fencing of privately owned outdoor swimming pools.

THEREFORE the Municipal Corporation of the Township of Augusta enacts as follows:

1. DEFINITIONS:

- (a) "ENCLOSURE" means a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.
- (b) "PRIVATELY OWNED OUTDOOR SWIMMING POOL" means any body of water located outdoors on privately owned property, contained in part or in whole by artificial means, in which the depth of the water at any point can exceed thirty-four centimeters (34 cm.) or twelve inches (12 in.) and used or capable of being used for swimming, diving or bathing.
- (c) "OWNER" includes a person in possession of the property on which the swimming pool is located.
- (d) "PERSON" means any firm, corporation, partnership, individual or Association.

2. REGULATIONS

- (a) No person shall erect a fence or gate for a swimming pool until plans for such fences and gates have been submitted to the Chief Building Official and a permit certifying approval of such plans has been issued.
- (b) No person shall excavate for or erect a privately owned swimming pool without a Certificate that approval of the plans for the fence and gates have been issued.
- (c) No person shall place water in a privately owned outdoor swimming pool or allow water to remain therein unless the enclosure prescribed by this by-law has been erected.

3 ENCLOSURES

- (a) The owner of a privately owned outdoor swimming pool shall erect and maintain an adequate enclosure surrounding the entire swimming pool area sufficient to make such body of water not readily accessible, provided that in the case of any privately owned property which has a frontage on the St. Lawrence River no fence shall be required on the river side of the pool if the pool is completely enclosed by fences or other structures extending to the high water mark .
- (b) Except as further provided in clause 3 (c), such enclosures, including gates therein, shall extend from not more than fifty millimeters (50 mm.) or two inches (2 in.) above the ground to a height, measured on the outside of the enclosure, of not less than one

point two meters (1.2 m.) or four feet (4 ft.)

- (c) When a wall of a building forms part of such enclosures, no entrance to the building shall be located within the swimming pool area enclosure, except that this requirement shall not apply when the main entrance to the building and all exterior service meters and intakes are located outside the enclosure.
- (d) Except as provided in 3.(e).(v).(2), such enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
- (e) A fence or its equivalent forming part of such enclosure,
 - (i) shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in clause 3.(e).(v)
 - (ii) if of chain link construction shall
 - (1) be of not greater than thirty-eight millimeters (38 mm.) or one and a half inch (1/2 in.) diamond mesh.
 - (2) be constructed of galvanized steel wire not less than No. 12 gauge, or of minimum 14 gauge steel wire covered with a vinyl or other approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire;
 - (3) be supported by at least thirty-eight millimeters (38 mm.) or one and a half inch (1 and 1/2 in.) diameter steel posts each covered by a minimum of fifty-one millimeters (51 mm.) or two inches (2 in.) of concrete from grade to a minimum of sixty-one centimetres (61 cm.) or feet (2 ft.) below grade, such posts to be spaced not more than three point zero four eight metres (3.048 m.) or ten feet (10 ft.) apart. Top and bottom horizontal rails shall be provided of thirty-one point seven five millimetres (31.75 mm.) or one and one quarter inch (1 1/4 in.) minimum diameter galvanized steel, except that a six point three millimeters (6.3 mm.) or one quarter inch (1/4 in.) minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating
 - (iii) if of wood construction;
 - (1) have the vertical boarding attached to supporting members all of which are arranged in such a manner so as not to facilitate climbing from the outside. Such vertical boards shall be not less than twenty five point four millimetres (25.4 mm.) by one hundred and one point six millimetres (101.6 mm) or 1 inch (1 in.) by four inch (4 in.) nominal dimensions spaced not more than thirty-eight point one millimeters (38.1 mm.) or one and a half inches (1 1/2 in.) apart;
 - (2) be supported by a minimum of one hundred and one point six millimetres (101.6 mm.) or four inch square (4 in.) or four inch (4 in.) diameter posts, nominal dimensions, spaced not more than two point four three eight metres (2.438 m.) or eight feet (8 ft.) on centers securely embedded to a minimum of sixty-one centimetres (61 cm.) or two feet (2 ft.) below grade. That portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood fifty-one millimetres (51 mm.) or two inch (2 in.) by one hundred and one point six millimetres (101.6 mm.) or four inch (4 in.) minimum nominal dimensions;

- (iv) shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence;
- (v) may be of construction other than that specified provided an equivalent degree of safety is maintained and shall;
 - (1) be constructed so that the rigidity is equal to that specified for those fences described in clauses (e).(ii) and (iii);
 - (2) be permitted to have exposed structural or other members or parts thereof that may facilitate climbing the outside of the enclosure provided the minimum clear vertical distance between any such members, or parts thereof, is one point two meters (1.2 m.) or four feet (4 ft.) and, regardless of the location of such members, where this minimum one point two meters (1.2 m.) or four feet (4 ft.) vertical dimension is maintained the least dimension of any opening through such fence may be increased to not more than that required to prevent the passage of a spherical object having a diameter of one hundred and one point six millimeters (101.6 mm.) or four inches (4 in)
- (vi) the provisions of this By-Law requiring the erection of a fence shall not apply if the outside wall of the swimming pool is elevated at least one point two meters (1.2 m.) or four feet (4 ft.) above the grade of the ground abutting such wall, and each entrance to the pool is protected by a gate at least one point two meters (1.2 m.) high or four feet (4 ft.) and having self closing and self latching devices as provided in the immediately following subparagraph.
- (f) Gates forming part of such enclosures shall;
 - (i) be of construction and height equivalent to that required for the fence;
 - (ii) be supported on substantial hinges; and
 - (iii) be self-closing and equipped with a self-latching device placed at the top and on the-inside of the gate such that the device latches when the gate is in the closed position.
- (g) Subject to the provisions of paragraph (c), doors providing access from a building directly to an enclosed swimming pool area, other than doors located in a dwelling unit or a rooming unit, shall each be self-closing and equipped with a self-latching device located not less than one point five two meters (1.52 m.) or five feet (5 ft.) above the bottom of the door.
- (h) The owner of every privately owned outdoor swimming pool shall ensure that every gate and door required by paragraphs (f) and (g) to be equipped with a locking device shall be kept latched at all times if there is more than thirty-four centimeters (34 cm.) or twelve inches (12 in.) of water in the pool and a responsible person is not present and supervising the pool.

4. PENALTY

- (a) The By-Law Enforcement Officer of the Corporation of the Township of Augusta or duly appointed agents of the Township shall enforce the provisions of this By-Law.

- (b) Any person violating any of the provisions of this By-Law, is guilty of an offence and the penalty upon conviction therefore shall be as provided for in the Provincial Offences Act, R. S. O. 1990, Chapter 33 and amendments thereto.
- (c) Metric to override and the measurements given in this by-law are given for convenience in metric scale of measurement and in imperial scale of measurement. In the event of any question in interpreting this by-law then the metric measurement will be deemed to be the operative measurement.

5. **REPEALS**

By-Law Number 1893 is hereby repealed in its entirety.

READ a first time this 29th day of June 2004

READ a second time this 29th day of June 2004

READ a third time, passed and sealed this 29th day of June 2004



REEVE

CAO CLERK / EDO

PART 1 PROVINCIAL OFFENCES ACT

ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION OR DEFINING OFFENCE	SET FINES INCLUDING COSTS
1	Erect enclosure without a building permit	Section 2, (a)	\$200.00
2	Erect pool without without approval	Section 2, (b)	\$100.00
3	Excavate for pool without approval	Section 2, (b)	\$100.00
4	Fail to erect prescribed enclosure	Section 2, (c)	\$100.00
5	Fail to maintain an adequate enclosure	Section 3, (a)	\$200.00

Note: The provision (s) for the offences indicated above is is Section 4 (b) of the Pool Fencing By-Law #
A Certified copy of which has been filed.

THE HONOURABLE BRUCE E. MACPHEE
REGIONAL SENIOR JUSTICE
EAST REGION
ONTARIO COURT OF JUSTICE

COURT HOUSE
161 ELGIN STREET, 6TH FLOOR
OTTAWA, ONTARIO
K2P 2L1



L'HONORABLE BRUCE E. MACPHEE
JUGE PRINCIPAL RÉGIONAL
RÉGION DE L'EST
COUR DE JUSTICE DE L'ONTARIO

PALAIS DE JUSTICE
161, RUE ELGIN, 6^e ÉTAGE
OTTAWA (ONTARIO)
K2P 2L1

TELEPHONE / TÉLÉPHONE (613) 239-1520
FAX / TÉLÉCOPIEUR (613) 239-1572

July 27, 2004

A. Marty Lawson,
By-Law Enforcement Officer
3560 County Road 26
RR#2
Prescott, Ontario
K0E 1T0

Dear A. Marty Lawson,

**Re: *Set Fines - Provincial Offences Act – Part I
Township of Augusta, Leeds & Grenville Counties***

Enclosed herewith is a copy of an Order and a copy of the schedule of set fines for By-law No. 2537/04, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the validity of the By-law or of the short form of wording used to describe the offences.

I have forwarded the original Order and the schedule of the set fines to the Honourable Mr. Justice C.D. Anderson in Brockville, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in blue ink, appearing to read 'B. MacPhee', with a long, sweeping flourish extending to the right.

Bruce E. MacPhee
Regional Senior Justice

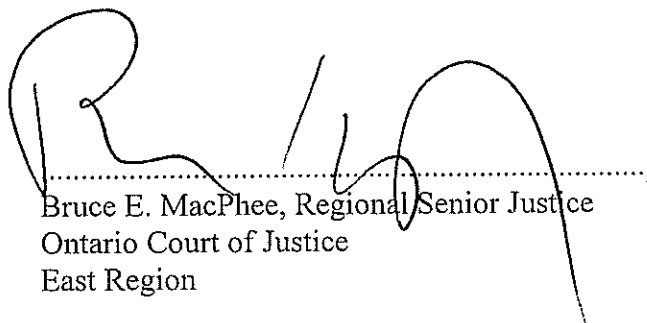
Enclosures

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedules of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2537-2004 of the **Township of Augusta** attached hereto are the set fines, including costs, for those offences. This Order is to take effect July 27, 2004.

Dated at Ottawa this 27th day of July 2004.



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Bruce E. MacPhee, Regional Senior Justice
Ontario Court of Justice
East Region

PART 1 PROVINCIAL OFFENCES ACT

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