

THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. 3389 (2013)

**Being a By-law to establish standards, regulations and maintenance requirements for swimming pools, their enclosures, and equipment; and to Repeal and Replace By-law 1959(1997)**

WHEREAS the Council of The Corporation of The Town of Pelham has, pursuant to the Municipal Act, 2001, Section 11(2) the authority to pass By-Laws respecting health, safety and well-being of persons, protection of persons, property and structures including fences;

AND WHEREAS the council of the corporation of the Town of Pelham deems it desirable to enact such a by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS THE FOLLOWING:

**Section 1 Title**

1.1 This by-law shall be known as "the pool by-law";

**Section 2 Definitions**

In this by law:

2.1 By-Law Enforcement Officer means a By-Law Enforcement Officer appointed by The Town of Pelham.

2.2 Chief Building Official means the Chief Building Official of The Town of Pelham

2.3 Corporation means The Corporation of The Town of Pelham.

2.4 Construct means to build and /or to permit to build or erect, alter, relocate or cause any material alteration to a swimming pool or swimming pool enclosure. Without limiting the generality of the foregoing construct shall be taken to include any work in preparation to construct, and constructed has a corresponding meaning.

2.5 Entrance includes a gate, or opening intended for a means of entry or exit within a swimming pool enclosure.

2.6 Fence means a structure serving as an enclosure, a barrier or boundary to control the means of ingress into a pool area.

2.7 Hot Tub means a vessel designed to or intended for therapeutic or bathing purposes commonly referred to as a hot tub, whirlpool, hydro massage pool, jetted tub or spa.

**2.8 "Swimming Pool",**

- a) Means an artificially contained body of water capable of holding a water depth of more than 660mm (26 in ) to be used or maintained for the purpose of swimming, bathing or wading and
- b) Includes above ground and below ground structures for such purposes, and
- c) Does not include a natural body of water, or stream

- d) Does not include a pond which is used for agricultural purposes, or as a reservoir for firefighting.
- 2.8.1 *Owner* includes the registered *owner*, occupant or any other person with an interest in the property.
- 2.8.2 *Person* includes an individual, an *owner*, occupant, agent, contractor, tenant, firm, proprietorship, partnership, association, syndicate, trustee, corporation, department, bureau or mortgagee.
- 2.8.3 *Swimming Pool Enclosure* means a permanent barrier, guard, railing, entrance or wall of any type, surrounding a *swimming pool* and a *swimming pool* area. Earth berms, hedges and other similar natural or man-made topographic features are not deemed to be *swimming pool* enclosures.

### Section 3 Authority

- 3.1 The *By-Law Enforcement Officer* shall administer this By-Law.
- 3.2 The By-Law shall be enforced by the *By-Law Enforcement Officer*.
- 3.3 Nothing in this By-Law shall restrict the use of alternative methods, materials or design as pre-approved by the *By-Law Enforcement Officer* at the time the application for a permit is made and prior to commencement of construction or demolition.

### Section 4 Swimming Pool Regulations

- 4.1 No *person* is to place water in a *swimming pool* or allow water to remain in such a *swimming pool* unless there is erected and maintained the fences and gates prescribed by this by-law;
- 4.2 **No person is to excavate for or erect a swimming pool until:**
  - (a) An application for permit, including plans showing the *swimming pool*, fences and gates are filed with the *By-Law Enforcement Officer*, and
  - (b) The *owner* pays to the corporation the fees and deposits prescribed by the corporation, and
  - (c) The *By-Law Enforcement Officer* issues a permit certifying the approval of such application and plans, and
  - (d) No *person* shall place water, or cause water to be placed, in a *swimming pool*, unless an inspection has been successfully conducted and the installation of the *swimming pool enclosure* is approved by the *By-Law Enforcement Officer* conducting the inspection, and
- 4.3 No *person* shall construct, cause to be constructed or have a *hot tub* unless:
  - a) The *hot tub* complies with the *swimming pool* enclosure requirements of this By-Law or;
  - b) The *hot tub* has a cover that prevents access to the *hot tub* and the cover is in place and locked when the *hot tub* is not in use
- 4.4 **Every owner of a swimming pool is to enclose such a swimming pool by a fence extending from the ground at the fence measured vertically to a height of not less than 1.5 meters (4.92 ft.) and not more than 1.82 meters (6 ft.)**
- 4.5 **A fence which forms a swimming pool enclosure, or part thereof, shall be of sound construction as approved by the By-Law Enforcement Officer and may include:**
  - (a) Chain link construction;
  - (b) Vertical board construction;
  - (c) Wrought iron construction;

- (d) Masonry construction comprised of brick or concrete block; or
- (e) Such other materials and construction that will provide an equivalent or greater degree of safety, as determined by the By-Law Enforcement Officer

4.6 A fence referenced to in 4.5 shall comply with the following provisions:

- a) All vertical and horizontal structural support members shall be spaced not more than 2440mm (8'-0") apart;
- b) All vertical non-structural support members shall be spaced not more than 100mm (4") apart;
- c) All horizontal non-structural members shall be spaced not greater than 25mm (1") apart and must not create a climbing advantage; and
- d) The clearance between the ground and the bottom edge of a fence shall not exceed 100mm (4")

4.7 Every *swimming pool enclosure* shall allow access to the *swimming pool area*, other than through a dwelling unit, by means of one or more gates or entrances.

4.8 Gates or entrances which form a part of the *swimming pool enclosure* shall be:

- (a) Be equipped and maintained with a gate or gates of the same materials as is described for fences and together with self-closing and self-latching devices located and arranged on the pool side (inside) of the gate, so as to prohibit entry by closing and latching at all times, and
- (b) Not contain barbed wire or any facility for projecting an electrical current, and
- (c) Not contain any projections that will facilitate climbing, and
- (d) Be located at least 1.5m (4.92 ft.) measured horizontally from the water's edge

4.9 Every gate or entrance shall be kept closed and locked at all times when not in use.

4.10 The fence enclosing any swimming pool may include a wall or a wall which is part of a building as part of such fence provided that the wall is at least 1.5m (4.92 ft.) in height measured vertically from the ground but if the wall has a door or doors, such door or doors are to be kept securely locked when the pool is not in use.

4.11 The provisions of this by-law requiring the erection and maintenance of a fence that shall completely enclose the *swimming pool* shall not apply if the outside wall of the *swimming pool* has a height of not less than 1.5m (4.92 ft.) measured from the ground level at all points on the perimeter of such wall, provided that any steps, ladder, platform, deck or other means of entry to the *swimming pool* are protected by a fence and gate which comply with all other requirements contained herein. The perimeter of any platform or deck forming part of the *swimming pool enclosure* shall be protected by a continuous guard or balustrade of not less than 900mm (36 inch) in height from the top of the deck or platform and not less than 1.5m above grade, such guard or balustrade shall be constructed in accordance with section 4.4 above.

4.12 *Swimming pool* water may be emptied into a storm sewer or drainage ditch at a rate no greater than 300 litres (116 gals) per minute (approximately twice the flow of a 1/3 H.P. pump) *Swimming pool* water shall not be emptied into a sanitary sewer.

4.13 The provision of this by-law shall apply to all *swimming pools* within the Town of Pelham subject to any exclusions or special provisions provided for in schedule "A" to this by-law.

**Section 5 Enforcement**

5.1 The enforcement of this by-law shall be under the jurisdiction of the *By-Law Enforcement Officer*.

5.2 An *By-Law enforcement officer* who finds a contravention of this By-Law or an unsafe Condition may make an order directing compliance with this By-Law and may require the order to be carried out immediately or within such time as is specified in the order

5.3 Power of entry re: Inspections

Pursuant to the Municipal Act, 2001, section 436 (1) a *By-Law Enforcement Officer* may enter on property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) a by-law of the municipality passed under the Municipal Act;
- b) a direction or order made under this by-law

**Section 6 Offences**

6.1 Any *person* who contravenes this by-law is guilty of an offence and on conviction is liable to a penalty as prescribed by the Provincial Offences Act.

6.2 Non-Compliance with Order

If an *owner or person*, as the case may be, fails to comply with an order issued under 5.2 the *By-Law Enforcement Officer* may take action to do the thing(s) required to be done as specified in the order

6.3 Recovery of Expense

If the Town of Pelham takes action to do thing(s) required to be done as specified in the order, the costs of such action may be added to the tax roll and collected in the same manner as the taxes.


**Section 7 Repeal and Replace**

THAT By-law #1959(1997) be and the same is hereby repealed upon the effective date as set out below.

**Section 8 Effective Date**

THAT this by-law shall become effective on the date of third reading, as set out below.

READ A FIRST, SECOND AND THIRD TIME  
AND FINALLY PASSED BY COUNCIL THIS  
17<sup>th</sup> DAY OF JUNE, 2013 A.D.

  
MAYOR DAVE AUGUSTYN

  
TOWN CLERK, NANCY J. BOZZATO

SCHEDULE 'A'  
TO BY-LAW # 3389 (2013)  
"Pool By-law"

Special Provisions:

Pursuant to the exception provisions of Section 4.12:

1. At the property known municipally as 1363 Effingham Street, the fence along the east side of the privately-owned outdoor swimming pool may be erected not less than 1.35 m (4.43 feet) from the water's edge.
2. Fences in the rear yards of those lots adjacent to the westerly boundary of Pelham Street from the intersection of Merritt Road and Pelham Street to the north side of Welland Road at its intersection with Pelham Street may be erected and maintained to a height of not greater than 1.82 m (6 feet) above the centre line of Pelham Street.
3. At the property known municipally as 14 Michaela Crescent the fence along the west side of the privately-owned outdoor swimming pool may be erected not less than 1.2 m (3.94 feet) from the water's edge.
4. The fence along the westerly lot line may be erected to a maximum fence height of 2.15 m (7' 0" – 7 feet) on the property known municipally as 12 Cherry Ridge Boulevard.