

THE CORPORATION OF THE TOWNSHIP OF BONFIELD

BY-LAW NO. 2004-29

**BEING A BY-LAW FOR PRESCRIBING THE HEIGHT
AND DESCRIPTION OF LAWFUL FENCES IN THE
HAMLETS OF BONFIELD AND RUTHERGLEN AND FOR
ESTABLISHING MINIMUM STANDARDS FOR SWIMMING POOL FENCES**

WHEREAS subsections 9(3) and 11(1) of the Municipal Act 2001 authorizes municipalities to pass by-laws with respect to “structures, including fences and signs”, including by-laws to regulate or prohibit such matters;

NOW THEREFORE the Corporation of the Township of Bonfield **ENACTS AS FOLLOWS:**

1. DEFINITIONS

In this By-law:

“Chief Building Official” means the Chief Building Official for the Corporation of the Township of Bonfield.

“Depth” when used in relation to swimming pools, means the distance from the bottom of the pool at its lowest point to the top edge of the pool.

“Division Fence” means a fence marking the boundary between abutting parcels of land.

“Fence” means a structure located at grade erected as a physical barrier.

“Height” means the vertical distance measured between the finished grade and the highest point of the fence. In the case of a fence located on top of a retaining wall means the vertical distance between the top of the retaining wall and the highest point of the fence.

“Multiple Residential Property” means a property used for or permitted to be used for multiple dwelling units and includes hotels and motels.

“Non Residential Property” means a property used for uses other than residential or multiple residential uses and includes schools and other institutional uses but does not include public highways or walkways.

“Owner” means an owner, lessee, tenant, mortgagee in possession and the person in charge of any property.

“Person” means an individual, firm, corporation, association or partnership.

“Pool” means a privately owned outdoor swimming pool which includes any body of water or pool located outdoors on privately owned property contained in part or in whole by artificial means and used or intended for swimming, diving or bathing but does not include:

a) a farm pond

b) a body of water or pool that is less than 37 inches in height or depth, or a combination thereof.

“Service Entrance” means that entrance into a building which is normally used by persons entering such building for the purposes of delivering goods or rendering maintenance service as opposed to the main or principal entrance and shall include a door giving access to a garage.

“Single Family Residential” means any property or portion thereof serving a single dwelling unit.

“Yard” means all yards as defined in Section 1 of this By-Law.

Yard, Exterior Side - means the side yard of a corner lot, which side yard extends from the front yard to the rear yard between the side lot line abutting a street and the nearest main wall of any main building or structure.

“Yard, Front means a yard extending across the full width of the lot between the front lot line and the nearest main wall of the main building or structure on the lot.

“Yard, Interior Side” - means a side yard other than an exterior side yard.

Yard, Rear - means a yard extending across the full width of the lot between the rear lot line and the nearest main wall of the main building on such lot.

“Zone” means a zone designation in a by-law enacted pursuant to Section 34 of the Planning Act, 1990, or a predecessor of that section.

2. APPLICATION

- 2.1 The requirements of Sections 3, 4, 5 and 6 of this By-Law apply to all properties within the limits of the Hamlets of Bonfield and Rutherglen as set out on Schedules “A4” and “A3” respectively to the Township of Bonfield Zoning By-law 2000-08.
- 2.2 The requirements of Sections 7 and 8 of this By-Law applies to all properties within the limits and under the jurisdiction of the Corporation of the Township of Bonfield.

3. HEIGHT AND DESCRIPTION OF LAWFULL FENCES

- 3.1 No person shall construct a fence that is greater than 1.8 metres (6 feet) in height in any rear yard or side yard or greater than 1.20 metres (4 Feet) in a front yard as set out in Section 2.
- 3.2 Despite section 3.1, no person shall construct a fence that is greater than 3.04 metres (10 feet) in height on or around an industrial property, a commercial property, a public utility, an installation for the generation and distribution of electricity, a pipeline valve, a storage site for chemicals and explosives, a sludge pit or a property used for a similar or related purpose, and the location of every such fence shall comply with the yard and setback requirements of the zoning by-law that applies to the property.

4. EXEMPTIONS FROM HEIGHT RESTRICTIONS

4.1 Council may, upon application by an owner of land, enact a resolution to grant an exemption from the height restrictions set out in Section 3.

5. RESTRICTIONS ON FENCES

5.1 No person shall use any barbed wire or other barbed or sharp materials in the construction of, or in connection with, any fence, except where such a fence is located within an industrial or commercial zone and provided that such materials are used at a height of at least 1.80 metres (6 feet) above the finished grade.

5.2 No person shall permit a fence or any attachment to a fence to be used as a conductor of an electrical current.

5.3 No person shall construct a fence upon a property boundary at a location where a maintenance easement exists unless the fence contains a gate within the limits of the easement at least 2.4 metres (8 feet) in width providing access to the easement lands.

5.4 No person shall construct a fence over a drainage easement or watercourse without constructing a watergate sufficient to ensure adequate drainage. All watergates on fences shall at all times be kept free from obstructions.

6. CONSTRUCTION AND MAINTENANCE

6.1 Every fence shall be designed and installed in such a manner as to meet its intended function.

6.2 All surfaces that have been previously painted, stained, varnished or which have received other similar protective finishes shall be maintained without visible deterioration.

6.3 Every fence shall be maintained in a structurally sound condition and in good repair.

7. SWIMMING POOL FENCES AND CLOSURES

7.1 The owner of a pool shall erect and maintain around the pool a fence or wall, or combination thereof, which shall meet the following criteria:

- a) A wall including the outside wall of a building may be used as one or more sides of a fence provided that the main entrance to the building shall not be located in such wall. If a service entrance is located in such wall it shall have a self-closing door equipped with a self-latch device located not less than 1.22 metres (4 feet) above the bottom of the door;
- b) The fence and/or wall shall be a minimum of 1.22 metres (4 feet) in height above the grade of the lands. The grade of the lands for the purpose of this section shall mean the grade of the lands located on the outside of the fence located within 0.9 metres (3 feet) of the fence;
- c) A fence forming part of such enclosure shall be vertically boarded wood construction, solid wood or basket weave construction, chain link construction, masonry, plastic or metal construction and shall have no rails or other horizontal or diagonal bracing or attachments on the outside that may facilitate climbing;

- d) The fence shall be substantially supported to provide stability, safety and strength;
- e) Shall have no opening with a horizontal dimension greater than three inches (3 inches);
- f) Shall have no device for projecting electric current through the fence.

Notwithstanding this section, if a fence is erected in compliance with this provision and the grade of the lands that are adjacent to the lot on which the pool is erected is raised, the fence shall be deemed to remain in compliance.

7.2 Gates forming part of such fencing:

- a) Shall be of the same construction and height to that required for the fence;
- b) Shall be supported on substantial hinges;
- c) Shall be equipped with a self closing device; and
- d) Shall be equipped with a self latching device placed at the top and on the pool side of the gate.

**8. SWIMMING POOL FENCES AND CLOSURES
ADDITIONAL PROVISIONS**

- 8.1 The provisions of this By-Law requiring the erection of a fence shall not apply if the outside walls of the swimming pool are elevated at least four feet (4 feet) above the grade of the ground abutting such walls provided the exterior surface of the walls are so constructed so as not to facilitate climbing and each entrance is protected with a gate complying with the requirements of Section 7.
- 8.2 A fence erected on the property lines which complies with the provisions of this By-Law shall be deemed a sufficient fence if it completely fences in the yard in which the swimming pool is located.
- 8.3 The provisions of this By-Law shall apply to all pools as defined in Section 1, regardless of the date of construction of such pool.

9. ADMINISTRATION

- 9.1 The Chief Building Official is responsible for the administration and enforcement of this By-Law.

10. OFFENCES AND PENALTY PROVISION

- 10.1 Any person who contravenes the provisions of this By-Law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Provincial Offences Act* and to any other applicable penalties.
- 10.2 If this By-Law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

11. VALIDITY

11.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that each and every provision of this bylaw authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

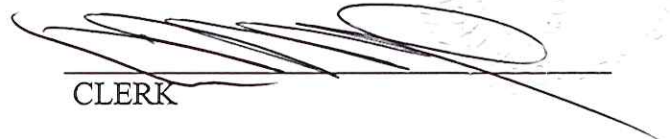
12. REPEALS

12.1 By-Law 85-12 is hereby repealed.

READ A FIRST AND SECOND TIME THIS 14TH DAY OF SEPTEMBER, 2004.

READ A THIRD TIME AND FINALLY PASSED THIS 26TH DAY OF APRIL, 2005.


MAYOR


CLERK