

## Chapter 234

### SWIMMING POOL ENCLOSURES

#### GENERAL REFERENCES

Building construction — See Ch. 29.

Fences — See Ch. 78.

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#### § 234-1. Title.

The chapter may be cited as the "Swimming Pool Enclosure By-Law."

#### § 234-2. Definitions.

- A. For the purposes of this chapter the definitions and interpretations given in this section shall govern:

ENCLOSURE — A fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.

OWNER — Includes a lessee or tenant in possession of property on which a pool is located.

POOL — Any privately owned body of water located outdoors above or below finished grade on privately owned property, contained by artificial means in which the depth of the water at any point can exceed 600 mm (24 inches) and used or capable of being used for the purpose of swimming, diving, or bathing and shall include hydro-massage pools (hot tubs).

#### § 234-3. Enclosure exemption.

- A. A pool is exempt from the requirements to erect an enclosure around such pool where a substantial cover and securing system approved by the Chief Building Official is provided that fits over the entire pool opening, and such cover is secured to prevent access to the pool at all times when not in use.
- B. No person shall permit or cause to be permitted the substantial cover of a pool to be unsecured against access when such pool is not in use.

#### § 234-4. Enclosure required.

- A. The owner of each pool as defined in §§ 234-2 and 234-14 hereof shall erect and maintain an enclosure around each such pool.
- B. Any enclosure required to be provided and maintained under § 234-3A may include:
- (1) One or more gates which are erected and maintained in accordance with § 234-4B of this chapter;
  - (2) Any part of a wall of a building if the part used as part of the enclosure exceeds 1.5 metres (60 inches) in height.

#### § 234-5. Specifications for enclosures.

A. Every enclosure shall be required to be erected and maintained in accordance with § 234-3A shall be:

- (1) Not less than 1.5 metres (60 inches) in height above grade;
- (2) Constructed so that any enclosure post or other structural member of the enclosure to which any wire, boards or other materials are attached is on the pool side of such wire, boards or other material;
- (3) Constructed so that it has no openings, rails, or horizontal or diagonal attachments on the outside which facilitate climbing;
- (4) Constructed so that the only mean of ingress to or egress from the area enclosed by the enclosure shall be through doors or gates constructed in accordance with Subsection B of this section;
- (5) Where constructed of chain link, the material shall be of not less than twelve-gauge with diamond mesh not larger than 40 mm (1.5 inches); shall be supported by metal posts set in concrete and spaced not more than three metres apart; and shall, throughout its length, have a taut wire interwoven through the bottom links to prevent the bottom portion of the enclosure from being raised;
- (6) Where constructed of wood, the boards shall be placed vertically not more than 40 mm (1.5 inches) apart;
- (7) All enclosures shall be located not less than 1.5 metres (60 inches) from the edge of the pool; and
- (8) The bottom of all enclosures shall be at grade level.

B. Every gate included in a enclosure required by § 234-3A shall be:

- (1) Constructed in accordance with the provisions of Subsection A hereof;
- (2) Equipped with self-closing and self-latching devices so that, when not in use, the gate is at all times closed and latched. Such latching device shall be located at the top of the gate on the pool side; and
- (3) When an adult person is not present supervising the pool, the gate or gates are to be kept closed and locked. Such enclosures and gates shall be erected and maintained so that no access to the swimming pool is possible except through the gate or gates provided. Nothing in this chapter shall prevent the use of any existing or proposed wall or walls or a structure located on the same property as one or more sides of the enclosure; provided, however, that such wall or walls shall be of greater strength than the required enclosure and shall be approved by the Chief Building Official.

#### **§ 234-6. Aboveground pools.**

A. Notwithstanding the provisions of §§ 234-3 and 234-4 hereof, in the case of a pool constructed entirely above grade and so constructed that it has no openings, rails or horizontal or diagonal attachments on the outside which would facilitate climbing, and such pool is constructed with rigid, vertical pool sidewalls not less than 1.5 metres (60 inches) in height, only the fixed-in-place steps to such pool are required to be enclosed and equipped

with a gate as hereinbefore provided. The fencing around such steps and the gate shall in all respects comply with the provisions of this chapter.

- B. If no fixed-in-place steps are constructed on a pool and access to the pool is gained only by use of a portable access ladder, such ladder shall be removed away from the pool such that it does not permit access to the pool at all times when the pool is not in use.
- C. No person shall permit or cause to be permitted a portable access ladder to be left in place at the pool when the pool is not in use.

**§ 234-7. Hydro-massage pools.**

- A. Hydro-massage pools, also known as "hot tubs" are exempt from the provisions of this chapter, provided that a substantial cover is attached to the pool and secured to prevent access when the pool is not in use.
- B. No person shall permit or cause to be permitted the substantial cover of a hydro-massage pool to be unsecured against access when such pool is not in use.

**§ 234-8. Construction plans for enclosures and gates.**

Prior to the construction of enclosures and gates as required hereby, the owner of the swimming pool shall produce and deposit with the Chief Building Official, or his or her designate, plans showing all enclosures and gates proposed to be constructed, such plans to show the location of such enclosures and gates and their manner of construction in sufficient detail to permit the Chief Building Official, or his or her designate, to ascertain whether or not the proposed enclosures and gates shall comply with the provision of this chapter.

**§ 234-9. Issuance of permit.**

In the event that the proposed enclosures and gates comply with the provision of this Chapter, the Chief Building Official, or his or her designate shall, subject to § 234.10. hereof, issue a permit certifying that he or she has approved such plans.

**§ 234-10. Certificate for previously constructed enclosures and gates.**

A certificate may be issued for such enclosures and gates as may have been constructed prior to the date hereof but which in all respects comply with the provision of this chapter.

**§ 234-11. Permit required.**

No person shall erect or cause to be erected a pool without first obtaining a permit as heretofore provided.

**§ 234-12. Fee.**

The fee for a permit issued under this chapter shall be the minimum building permit fee as listed on Schedule A of Chapter 29, Building Construction, and payable prior to the issuance of a permit.

**§ 234-13. Erection of enclosures prior to filling pools required.**

No person shall place water in a pool or allow water to remain therein unless the enclosure and gates prescribed hereby have been erected in compliance with the provisions of this chapter.

**§ 234-14. Compliance with other by-laws.**

The Chief Building Official, or his or her designate, is authorized to refuse to issue a permit for any such enclosure or gate which, if erected, would be contrary to the provisions of any by-law of this municipality.

**§ 234-15. Applicability.**

- A. This chapter shall apply to any privately owned body of water located outdoors above or below finished grade on privately owned property, contained by artificial means in which the depth of the water at any point can exceed 600 mm (24 inches) and used or capable of being used for the purpose of swimming, diving, or bathing and shall include hydro-massage pools (hot tubs).
- B. The provisions of this chapter are applicable to the entire municipality.

**§ 234-16. Enforcement; inspections; duty of owner.**

This chapter shall be enforced by the Chief Building Official. It shall be the duty of every owner of pools to obtain a certificate from the Chief Building Official stating that the enclosure around such pool has been inspected and has been found satisfactory.

**§ 234-17. Offences.**

Any person who contravenes any provision of this chapter is guilty of an offence and, upon conviction, is liable to a penalty as provided in the Provincial Offences Act.<sup>1</sup>

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1. Editor's Note: This section was passed under the authority of section 320 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, and, under section 61 of the Provincial Offences act, R.S.O. 1990, c. P.33, as amended, a person convicted of an offence under this section is liable to a fine of not more than \$5,000.