

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2002-105

**BEING A BY-LAW TO REGULATE FENCES
AND TO REQUIRE FENCES AROUND SWIMMING POOLS**

WHEREAS Section 210 (30) of the *Municipal Act*, R.S.O. 1990, **M. 45**, as amended authorizes Council to pass by-laws to require fences around swimming pools;

AND WHEREAS Section 210, subsections 21, 25-30, of the *Municipal Act*, R.S.O. 1990, **M. 45**, as amended authorizes the Council to pass by-laws to regulate the construction of fences.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this by-law:
 - (a) **“Barrier”** means a fence, privacy screen, sound barrier, retaining wall, safety barrier or other accessory uses.
 - (b) **“Chief Building Official”** means the *Chief Building Official* appointed by the council of the Corporation of the *City of North Bay*.
 - (c) **“City”** shall mean the Corporation of the *City of North Bay*.
 - (d) **“Commercial Zone”** shall mean a commercial zone as defined in the *City of North Bay Zoning By-Law*.
 - (e) **“Daylight Corner”** means on any corner lot a triangular space measured along the *front yard* and the exterior side yard property lines for a distance of fifteen (15) feet (4.5 metres) from their point of intersection
 - (f) **“Fence”** shall mean a barrier constructed of chain link or of wood, stone, metal or material having an equivalent degree of strength to enclose and /or define property boundaries or to enclose a swimming pool.
 - (g) **“Front Yard”** means a yard extending across the full width of the lot between the street line and the face of the building and includes the exterior side yard on a corner lot.
 - (h) **“Gate”** shall be a swinging or sliding barrier used to fill or close an access and includes a door.
 - (i) **“Industrial Zone”** shall mean an industrial zone as defined in the *City of North Bay Zoning By-Law*.
 - (j) **“Private Swimming Pool”** shall mean a privately owned indoor or outdoor pool of water, other than:
 - (i) bathing beach,
 - (ii) a natural bathing area,
 - (iii) a hot tub that is above ground with a lockable cover, or
 - (iv) a wading or reflecting pool containing water not in excess of eighteen (18) inches (0.45 metre) in depth.
 - (k) **“Residential Zone”** shall mean a residential zone as defined in the *City of North Bay Zoning By-Law*.
 - (l) **“Rural Zone”** shall mean a rural zone as defined in the *City of North Bay Zoning By-Law*.

GENERAL

2. No person shall construct, use or maintain or cause construction, use or maintenance of a fence without a permit from the Chief Building Official.
3. The fee for a fence permit shall be as contained in the User Fee By-law.
4. A fence shall be erected in compliance with regulations as set forth by the zoning by-laws and/or any other by-law which applies to a fence.
5. No person shall erect, construct, alter or maintain a fence containing barbed wire, electricity or any other material where there is a possibility that any person may be injured thereby.
6. Barriers other than property fences shall conform to the *Building Code Act*, S.O. 1992, c. 23, as amended, or any successor thereof.
7. The Chief Building Official has the discretion to authorize a 15% variance in the fence height for material, barbed wire or site grading conditions.

FENCES IN RESIDENTIAL ZONES

8. A fence in a residential zone:
 - (a) shall not exceed four (4) feet (1.2 metres) in height when located in the front yard, measured at the base (finished grade) to the top of the fence on the applicant's side,
 - (b) shall not exceed four (4) feet (1.2 metres) in height in the rear yard of lakefront properties where access is provided from the rear yard to a public thoroughfare, measured at the base (finished grade) to the top of the fence on the applicant's side,
 - (c) shall not exceed six (6) feet (1.8 metres) in height when located in the side or rear yards, measured at the base (finished grade) to the top of the fence on the applicant's side,
 - (d) shall not exceed three (3) feet (0.9 metres) in height when located on a daylight corner, measured at the base (finished grade) to the top of the fence on the applicant's side, and
 - (e) shall be constructed so as to permit at least 25% of the fence area, for the even passage of air and light, uniformly distributed over the face of the fence.
9. Notwithstanding section 8(d), a four (4) foot (1.2 metre) chain link fence is permitted a daylight corner in a residential zone, if:
 - (a) its posts are not more than three (3) inches (80 millimetres) in diameter, and
 - (b) it is made of wire having a maximum gauge of twenty-four (24) and a minimum mesh of two (2) inches (50 millimetres).

FENCES IN COMMERCIAL, INDUSTRIAL or RURAL ZONES

10. Fences in a commercial, industrial or rural zone:
 - (a) shall not exceed six (6) feet (1.8 metres) in height when located in the front yard, measured at the base (finished grade) to the top of the fence on the applicant's side,
 - (b) shall not exceed eight (8) feet (2.4 metres) in the side or rear yards, measured at the base (finished grade) to the top of the fence on the applicant's side, and
 - (c) shall not exceed three (3) feet (0.9 metres) in height when located on a daylight corner, measured at the base (finished grade) to the top of the fence on the applicant's side.
11. Notwithstanding section 10(c), a six (6) feet (1.8 metres) chain link fence is permitted in a

daylight corner, in a commercial, industrial or rural zone, if:

- (a) its posts are not more than three (3) inches (80 millimetres) in diameter, and
 - (b) it is made of wire having a maximum gauge of twenty-four (24) and a minimum mesh of two (2) inches (50 millimetres).
12. A fence in a commercial, industrial, or rural zone may, upon approval by the Chief *Building Official*, be constructed with barbed wire or low voltage *fencing* and such approved barbed wire fencing must:
- (a) have a maximum of three strands of barbed wire, and
 - (b) the first strand must be located at the top of the *fence* no less than eight (8) feet (2.4 metres) from the grade.
13. Notwithstanding sections 10, 11 and 12, where a commercial or industrial zone abuts a residential zone, the fence shall be constructed in accordance with the requirements of sections 8 and 9 of this by-law.

PRIVATE SWIMMING POOLS

14. Every private *swimming pool* shall be protected by a *fence* which complies with this by-law.
15. No person shall construct, use or maintain or cause construction, use or maintenance of a *private swimming pool* in the City unless the area in which the swimming pool is located is completely enclosed by fencing in compliance with the requirements of sections 16, 17, 18, 19 20 and 21 of this by-law.
16. Every *fence* constructed or used to enclose a private *swimming pool* including gates, shall have a minimum four (4) feet (1.2 metres) height measured at the base (finished grade) to the top of the *fence*.
17. A *fence* forming all or part of a *private swimming pool* enclosure:
- (a) shall be vertically boarded wood construction, chain link construction, masonry, plastic, metal construction or a material having an equivalent degree of strength,
 - (b) shall have no rails or other horizontal or diagonal bracing or attachments on the outside that may facilitate climbing, however this subsection shall not apply to prevent the construction or maintenance of a *fence* containing horizontal rails bracing members which are spaced a minimum of thirty-two (32) inches (0.8 metres) on center,
 - (c) shall have no opening with a horizontal dimension greater than three (3) inches (75 millimetres), and
 - (d) shall have no device for projecting electric current through the *fence*.
18. Gates forming part of a private swimming pool enclosure:
- (a) shall be of the same construction and height as that required for the *fence*,
 - (b) shall be supported on substantial hinges, and
 - (c) shall be equipped with a self-closing and self-latching device which must be placed at the top on the pool side of the gate.
19. The provisions of this by-law requiring the erection of a *fence* shall not apply if the outside walls of the private swimming pool are elevated at least four (4) feet (1.2 metres) above the grade of the ground abutting such walls provided that the exterior surface of the walls are so constructed as not to facilitate climbing and each entrance to the pool is protected with a gate complying with the requirements of section 18.

20. A *fence* erected on the property lines which complies with the provisions of sections 16, 17 and 18 shall be deemed a sufficient *fence* if it completely encloses the yard in which the swimming pool is located.
21. A wall or walls of a building or buildings may form part of such swimming pool *fence*, provided that all openings affording access from a building directly to an enclosed swimming pool area, are equipped with a locking device located not less than four (4) feet (1.2 metres) above the bottom of the floor.
22. The provisions of this by-law shall apply to all *private swimming pools* regardless of the date of construction of such private swimming pool.
23. Where,
- (a) the owner of the land upon which *a private swimming pool* is constructed, used or maintained has not constructed or maintained *a fence* according to the terms of this by-law, and
 - (b) the owner has been given twenty-four (24) hours notice in writing by personal service or five (5) days notice by registered mail of the default in compliance with the terms of this by-law;

then the *Chief Building Official* may at the expense of the landowner undertake such work as is required to remedy the default on an emergency basis.

24. The City may recover the expenses incurred pursuant to section 23 hereof by action or in like manner as municipal taxes.

ENFORCEMENT

25. This by-law shall be enforced by the *Chief Building Official* and the Building Department of the City.

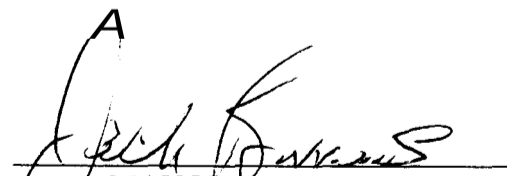
PENALTIES

26. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for under the *Provincial Offences Act*, R.S.O. 1990, c. P.22, as amended, or any successor thereof.
27. By-law No. 33-88 is hereby repealed.

READ A FIRST TIME IN OPEN COUNCIL THE 26TH DAY OF AUGUST, 2002.

READ A SECOND TIME IN OPEN COUNCIL THE 26TH DAY OF AUGUST, 2002.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 26TH DAY OF AUGUST, 2002.


MAYOR


DEPUTY CITY CLERK