

PROPERTY MAINTENANCE

CHAPTER 880 SWIMMING POOL FENCE

CHAPTER INDEX

Article 1 SHORT TITLE

880.1.1 Citation

Article 2 INTERPRETATION

880.2.1 Chief Building Official - defined

880.2.2 City - defined

880.2.3 Fence - defined

880.2.4 Owner - defined

880.2.5 Person - defined

880.2.6 Swimming pool - defined

Article 3 GENERAL PROVISIONS

880.3.1 Applicable - to all swimming pool owners

880.3.2 Fence permit - required - prior to construction

880.3.3 Application - prescribed form - filed

880.3.4 Power line - regulation - compliance - required

880.3.5 Temporary fence - during construction - required

880.3.6 Existing fence - requirement

880.3.7 Above ground pool - exemption - requirement

880.3.8 Pool - use - without fence - prohibited

880.3.9 Construction completed - inspection compliance

880.3.10 Inspection - at any time - permitted - without warrant

880.3.11 Variance - Council Resolution

Article 4 FENCE

880.4.1 Owner - compliance - regulations - set out

880.4.2 Erected - maintained - completely surrounding pool

- 880.4.3 Main entrance - service meter - within - prohibited
- 880.4.4 Distance from pool - minimum
- 880.4.5 Height including gate - minimum
- 880.4.6 Sundeck - raised area - distance
- 880.4.7 Sundeck - raised area - height
- 880.4.8 Clearance - bottom edge - minimum
- 880.4.9 Framing - facilitating climbing - prohibited
- 880.4.10 Construction - requirement
- 880.4.11 Chain link - construction
- 880.4.12 Chain link - galvanized - coated wire - minimum gauge
- 880.4.13 Chain link - steel supports - minimum
- 880.4.14 Chain link - post spacing - foundation
- 880.4.15 Chain link - railing - top - bottom
- 880.4.16 Wood - vertically boarded
- 880.4.17 Wood - vertical board - size - spacing
- 880.4.18 Wood - supports - minimum size - spacing depth
- 880.4.19 Wood - supports - treated - below grade level
- 880.4.20 Other material - construction - decision
- 880.4.21 Gate - construction - height - equivalent to fence
- 880.4.22 Gate support - hinges substantial
- 880.4.23 Gate - self-closing - self-latching - from inside
- 880.4.24 Gate - locked - at all times - exception

Article 1 SHORT TITLE

880.1.1 Citation

This Chapter may be cited as the Swimming Pool Fence By-law.

Article 2 INTERPRETATION

880.2.1 Chief Building Official - defined

"Chief Building Official" means the Chief Building Official appointed by the Council of The Corporation of the City of Orillia.

880.2.2 City - defined

"City" means The Corporation of the City of Orillia.

880.2.3 Fence - defined

"fence" means a structural assembly of posts, boards, planks, rails, wood, wire, plastic, concrete, masonry, brick, stone, metal or any combination thereof, constructed in accordance with the provisions of Article 4 and includes a wall or other structure, or a combination thereof, including doors and gates, surrounding a swimming pool.

880.2.4 Owner - defined

"owner" means the registered owner of a property, a lessee, tenant, mortgagee in possession or person otherwise in charge of any property, acting as the authorized agent of the owner.

880.2.5 Person - defined

"person" means any individual, association, partnership, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.

880.2.6 Swimming pool - defined

"swimming pool" means any privately-owned swimming pool located outdoors, contained entirely or in part by artificial means, in which the depth of the water at any point can exceed 300 mm (12 in) and is used or capable of being used for swimming.

**Article 3
GENERAL PROVISIONS****880.3.1 Applicable - to all swimming pool owners**

This Chapter shall apply to the owners of all swimming pools including swimming pools constructed or erected prior to the date of the passing of the enabling by-law.

880.3.2 Fence permit - required - prior to construction

Subject to Sections 880.3.6 and 880.3.7, no person shall excavate for, construct or erect, or cause or permit the excavation for the construction or erection of any swimming pool without first having obtained a permit for a fence around such swimming pool from the Chief Building Official.

880.3.3 Application - prescribed form - filed

The owner shall file with the Chief Building Official an application for a permit which shall be on the prescribed form available at the offices of the City.

880.3.4 Power line - regulation - compliance - required

Prior to the issuance of any permit, the owner shall provide the Chief Building Official with confirmation in writing from the Orillia Water, Light and Power Commission stating that the location of the swimming pool and the area surrounded by the fence is in compliance with applicable regulations pertaining to overhead and below ground power lines.

880.3.5 Temporary fence - during construction - required

Any permit issued pursuant to this Sections 880.3.2 through 880.3.4 inclusive may provide for temporary fencing during the period of construction and no person shall excavate for, construct or erect a swimming pool until a temporary fence has been erected around the area adjacent to the swimming pool satisfactory to prevent access except for the purpose of such excavation, construction or erection.

880.3.6 Existing fence - requirement

A fence which was constructed prior to the date of the passing of the enabling by-law shall be deemed to comply with the provisions of this Chapter provided that it meets the following regulations:

- (a) the requirements of Sections 880.4.5 through 880.4.9 inclusive and Sections 880.4.21 through 880.4.25 inclusive;

- (b) if of chain link construction, the fence is of not greater than 50 mm (2 in) diamond mesh;
- (c) if of vertically boarded wood construction, the fence does not allow the passage of spherical object of greater than 100 mm (4 in) diameter.

880.3.7 Above ground pool - exemption - requirement

Notwithstanding the foregoing, this Chapter shall not apply to a swimming pool which is constructed above grade where the swimming pool is fully surrounded by a deck at least 1.2 m (3.94 ft) above grade and the support structure of the deck does not facilitate climbing and where any steps or ladder providing access to the deck surrounding such swimming pool are kept locked in a raised position at all times except while an adult person is present and supervising the swimming pool.

880.3.8 Pool - use - without fence - prohibited

No person shall use a swimming pool without first having constructed a fence in accordance with this Chapter.

880.3.9 Construction completed - inspection - compliance

The person to whom a permit has been issued under this Chapter shall notify the Chief Building Official of the completion of the construction or erection of a fence pursuant to this Chapter, and the Chief Building Official or designate shall make an inspection of the fence to confirm that it has been constructed in accordance with the permit issued.

880.3.10 Inspection - at any time - permitted - without warrant

The Chief Building Official or a designate may, for the purpose of the inspection of a fence in respect of which a permit is issued or an application for a permit is made, enter into or upon any land or premises at any time without a warrant.

880.3.11 Variance - Council Resolution

Council may by way of resolution grant a Variance from the provisions of this Chapter.

**Article 4
FENCE****880.4.1 Owner - compliance - regulations - set out**

The owner of a swimming pool shall comply with the regulations set out in this Chapter.

880.4.2 Erected - maintained - completely surrounding pool

A fence shall be erected and maintained in compliance with this Chapter completely surrounding every swimming pool and in accordance with the permit issued for such fence.

880.4.3 Main entrance - service meter - within - prohibited

The main entrance to a building, the service meters and fuel filler pipe shall not be located within the area enclosed by a fence.

880.4.4 Distance from pool - minimum

The minimum distance from a fence to the edge of a swimming pool shall be 1.5 m (4.92 ft).

880.4.5 Height including gate - minimum

A fence, including the gates therein shall extend from the ground to a height, measured on the outside of the fence, of not less than 1.2 m (3.94 ft).

880.4.6 Sundeck - raised area - distance

Except as provided under Section 880.4.7, no raised area of the ground or raised sundeck or other raised structure shall be within 1.5 m (4.92 ft) of the fence, whether located on the owner's property or

on adjoining property.

880.4.7 Sundeck - raised area - height

Where a raised area of the ground, a sundeck or other raised structure is proposed or is to be located closer than 1.5 m (4.92 ft) from the outside of the fence, the height of the section of the fence opposite such raised area, sundeck or other raised structure shall be measured from the top of the raised area, sundeck or other raised structure and the increased height shall extend, laterally or at a departing angle, a distance of not less than 1 m (3.28 ft) beyond the limits of the raised area, sundeck or other raised structure, measured at an angle of 90 degrees to the raised area, sundeck or other raised structure.

880.4.8 Clearance - bottom edge - minimum

The bottom edge of any fence shall be not more than 50 mm (2 in) from the ground and, where after construction this measurement is greater than 50 mm (2 in), it shall be reduced by grading or other means to meet this requirement.

880.4.9 Framing - facilitating climbing - prohibited

A fence shall have no framing members such as horizontal or diagonal bracing, horizontal rails or other appurtenances located between 140 mm (5.5 in) and 1054 mm (41.5 in), measured from the bottom of the fence, which would facilitate climbing.

880.4.10 Construction - requirement

A fence shall be of vertically boarded wood construction, chain link construction or of other materials and construction as provided for in Section 880.2.3.

880.4.11 Chain link - construction

A fence shall, if of chain link construction, be of not greater than 50 mm (2 in) diamond mesh if construction occurs before June 30, 1993, and thereafter be of not greater than 38 mm (1 ½ in) diamond mesh.

880.4.12 Chain link - galvanized - coated wire - minimum gauge

A fence shall, if of chain link construction, be of galvanized steel wire not less than 11 gauge or not less than 13 gauge steel wire covered with vinyl or other approved coating.

880.4.13 Chain link - steel supports - minimum

A fence shall, if of chain link construction, be supported by at least 38 mm (1 ½ in) diameter galvanized steel line posts and 50 mm (2 in) galvanized steel corner or end posts.

880.4.14 Chain link - post spacing - foundation

The posts of a chain link fence shall be spaced not more than 3 m (9.84 ft), shall extend into the ground at least 900 mm (36 in) and be set in concrete.

880.4.15 Chain link - railing - top - bottom

A fence shall, if of chain link construction, have top and bottom rails of 32 mm (1 ¼ in) minimum diameter galvanized steel, except that a 6 mm (.24 in) minimum diameter galvanized steel tension rod may be substituted for the lower steel rail.

880.4.16 Wood - vertically boarded

A fence shall, if of vertically boarded wood construction have the vertical boards attached to horizontal members of 38 mm (1 in) minimum thickness.

880.4.17 Wood - vertical board - size - spacing

Vertical boards shall not be less than 19 mm x 140 mm (1 in x 6 in) and shall be spaced not more than 100 mm (4 in) apart.

880.4.18 Wood - supports - minimum size - spacing - depth

A fence shall, if of vertically boarded wood construction, be supported by minimum 89 mm x 89 mm (4 in x 4 in) square wood posts or 100 mm (4 in) diameter cedar posts, spaced not more than 2.4 m (7.87 ft) on centres and shall extend not less than 900 mm (36 in) into the ground.

880.4.19 Wood - supports - treated - below grade level

A fence shall, if of vertically boarded wood construction, have that portion of the wood posts below grade treated with a wood preservative.

880.4.20 Other material - construction - decision

A fence shall, if of other materials and construction, be of such character and quality that, in the opinion of the Chief Building Official, provides and maintains an equivalent degree of safety to the type of fencing specified in Sections 880.4.11 through 880.4.19 inclusive.

880.4.21 Gate - construction - height - equivalent to fence

Gates forming part of a fence shall be of construction and height equivalent to that required for the fence.

880.4.22 Gate support - hinges substantial

Gates forming part of a fence shall be supported on substantial hinges.

880.4.23 Gate - self-closing - self-latching - from inside

Gates forming part of a fence shall be self-closing and equipped with a self-latching device mounted near the top and on the inside of the gate.

880.4.24 Gate - locked - at all times - exception

Gates forming part of a fence shall be equipped with a locking device and be kept locked at all times except while an adult person is present and supervising the swimming pool.

880.4.25 Doors - locked - at all times - exception

Doors forming part of a fence (except doors leading directly from a dwelling unit to a swimming pool area) shall be equipped with a locking device and be kept locked at all times except while an adult person is present and supervising the swimming pool.

**Article 5
ENFORCEMENT**

880.5.1 Fine - for contravention

Any person who contravenes or fails to comply with any provision of this Chapter shall be guilty of an offence and shall upon conviction be liable to a fine as prescribed in the Provincial Offences Act.

**Article 6
ENACTMENT**

880.6.1 Effective date

This Chapter shall come into force and take effect on the date of final passing of the enabling by-law.

Adopting By-law: By-law 1992-101, 21 September 1992.

By-law Amendments: By-law 2001-15, 29 January 2001.