

PROPERTY MAINTENANCE

Chapter 437 SWIMMING POOLS - REGULATION AND USE

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Article 1
INTERPRETATION

437.1.1 Chief Building Official - defined

“Chief Building Official” means the Chief Building Official appointed by the City of Brantford or his or her designate for administrative purposes.

437.1.2 Corporation - defined

“Corporation” means The Corporation of the City of Brantford.

437.1.3 Enclosure - defined

“enclosure” means a fence, wall or other structure, including doors and gates surrounding a privately-owned outdoor swimming pool to restrict access thereto.

437.1.4 Exterior grade - defined

“exterior grade” means the elevation of the ground on the outside of the fence given that the privately-owned outdoor swimming pool is contained inside the fence enclosure.

437.1.5 Inspector - defined

“Inspector” means an appointed inspector of The Corporation of the City of Brantford.

437.1.6 Privately-owned - defined

“privately-owned” means owned by a person other than a public or government body, agency or authority.

437.1.7 Swimming pool - defined

“swimming pool” means a privately-owned outdoor tank or body of water maintained or used or which may be used for swimming, wading, diving, bathing which could when filled contain a depth of 0.5 m or more of water other than an existing natural body of water or stream. It shall also include, but not be restricted to, a privately-owned outdoor “swimming pool” on lands used in connection with, any type of multiple residential development, motel, hotel, or similar establishment and a privately-owned outdoor swimming pool used for display or commercial purposes.

Article 2
GENERAL PROVISIONS

437.2.1 Administration - Chief Building Official

Administration of this Chapter shall be under the jurisdiction of the Chief Building Official.

437.2.2 Gate - height - support - self-closing - locking

Every gate shall be at least the same height as the fence, of which it is a part, be supported by substantial hinges and be equipped with approved self-closing hardware and self-latching hardware installed at the top and on the inside of the gate.

437.2.3 Gate - closed - locked - at all times - pool - unsupervised

Every gate and every enclosure shall be closed and locked at all times except when the owner or the owner's representative is in direct control and supervision of the pool enclosure.

437.2.4 Gate - lock - inside - prevention - unauthorized entry

The lock shall be located on the inside face of the gate or closure so as to prevent entry to the pool enclosure without the use of a key, special device or special knowledge.

437.2.5 Gate - bottom - distance above ground

The bottom of the gate must be no more than 100 mm above the exterior grade adjacent to said gate.

437.2.6 Fence - minimum distance from pool - exception

Every fence enclosing a swimming pool area shall be located not less than 1.5 m from the inside edge of the pool, except that this condition shall be deemed to be met where the total height of the pool wall above grade, plus a fence extension above, meeting the construction detailed previously in this Chapter, totals 1.80 m above grade.

437.2.7 Pools - distance from lot lines

Swimming pools shall be located no closer to lot lines than permitted by the City of Brantford Zoning by-laws.

437.2.8 Steps - ladders - fenced at grade

Where steps or ladders, fixed or movable, are installed, such facility shall be fenced at grade with fencing meeting the construction detailed in Articles 5 and 6.

437.2.9 Fence - distance from other fence - exception

Every fence enclosing a swimming pool area shall be located at least 1.22 m from any other existing fence not meeting the requirements of Section 4, other than fences located on adjacent properties on property lines other than property lines in common with the property on which the swimming pool is located. By-law 103-91, 24 June, 1991.

437.2.10 Water in pool - excavation without fencing - prohibited

No person shall place water in or allow water to remain in any swimming pool or swimming pool excavation until such time as fences in accordance with the requirements of this Chapter have been installed around such pool or excavation and the said fences have been inspected and approved by a building inspector. By-law 74-96, 2 July, 1996.

437.2.11 Barbed wire - electrical current - prohibited

The use of barbed wire or electrical current with respect to any fence enclosing a privately-owned outdoor swimming pool is prohibited.

437.2.12 Intersection - distance from - minimum requirements Every fence enclosing a swimming pool area which is situated at the intersection of streets shall be erected not closer than 4.6 m measured along the property line each way from the inside angle of such intersection, as provided in the City of Brantford Roads By-law [Chapter 614, City of Brantford Municipal Code].

437.2.13 Intersection - distance from - less than 90 degrees

In such cases where the angle of intersection is less than ninety degrees, the distance set out in Section 437.2.12 shall be determined by the City Engineer or his or her designate and the distance shall be measured along existing property lines from the point of intersection of such property lines at the intersection.

437.2.14 Inspection - right of entry - all reasonable hours

An Inspector shall have the right to enter onto any property containing a privately-owned outdoor swimming pool during reasonable hours for the purpose of inspecting the pool fence enclosure. By-law 103-91, 24 June, 1991.

437.2.15 Owner of fence - compliance with Chapter

Every owner of an outdoor swimming pool shall at all times maintain the fence around such pool to the standards set forth in this Chapter.

437.2.16 Request for inspection

Where the owner of any pool requests that the Building Department conduct any inspection beyond the initial inspection required under Section 437.2.10, the person making the request shall pay a fee of \$25. for such inspection. By-law 74-96, 2 July, 1996.

437.2.17 Existing pool - enclosure - exemption

Nothing in this Chapter shall be interpreted to require the alteration of any swimming pool, fence, gate or enclosure where the same was in compliance with those standards in existence immediately prior to the date of the passage of the enabling by-law.

Article 3
APPLICATIONS - PERMITS

437.3.1 Application - to Building Department - by owner

The owner of land upon which it is intended to construct or erect a swimming pool, or the owner's agent, shall apply to the Building Department for a permit.

437.3.2 Application - pool - fence - privately-owned

Every application for a swimming pool and pool fence permit to install or erect a privately-owned outdoor swimming pool shall be accompanied by the information set out in Sections 437.3.3 and 437.3.4.

437.3.3 Site plan - structures - location - dimensions - provided

A site plan of the property indicating the location and dimensions of all existing and proposed buildings, structures, the proposed pool and the existing or proposed fence enclosures shall be provided.

437.3.4 Fence - construction details

Construction details of the fence enclosure including gate hardware shall be provided.

437.3.5 Refusal - application - incomplete

An application for a swimming pool and pool fence permit to install or erect a privately-owned outdoor swimming pool may be refused if the application is incomplete.

437.3.6 Refusal - proposed installation - in contravention

An application for a swimming pool and pool fence permit to install or erect a privately-owned outdoor swimming pool may be refused if the proposed installation would contravene the municipal zoning by-law or any other applicable law.

437.3.7 Refusal - installation - contravening utility easements

An application for a swimming pool and pool fence permit to install or erect a privately-owned outdoor swimming pool may be refused if the proposed installation would contravene any public utility easements.

437.3.8 Refusal - where fence non-conforming

An application for a swimming pool and pool fence permit to install or erect a privately-owned outdoor swimming pool may be refused if the fence enclosure would appear to not conform to this Chapter.

437.3.9 Refusal - where fees unpaid

An application for a swimming pool and pool fence permit to install or erect a privately-owned outdoor swimming pool may be refused if all necessary fees have not been paid.

437.3.10 Excavation - prohibited - until issue of permit

No excavation for or erection of a swimming pool may be undertaken until a permit, referred to in Section 437.3.1 has been issued.

437.3.11 Reconstruction - same area - permit - not required

A permit is not required in the case of a swimming pool which has been dismantled and is being reconstructed in the same precise position in which a pool, under permit, was previously located and which in all respects complies with this Chapter and all other applicable by-laws of the City of Brantford.

Article 4 POOL - CONSTRUCTION

437.4.1 Temporary fence - permitted - during construction

Where construction equipment is required to enter the fenced enclosure noted in Section 437.3.10, a temporary fence may be installed for a distance of no more than 4.50 metres in place of the permanent fence subject to the requirements set out in Sections 437.4.2 through 437.4.6 inclusive.

437.4.2 Temporary fencing - snow fence - other - approved

The temporary fencing material must be snow fencing or an approved alternative.

437.4.3 Temporary fencing - good repair - maximum opening

The temporary fencing must be in good repair with no openings greater than 100 mm.

437.4.4 Temporary fencing - minimum height - supported

The temporary fencing must be a minimum 1.0 metres in height and adequately supported.

437.4.5 Temporary fencing - in place - when area unsupervised

The temporary fencing must enclose the pool area whenever the area is unsupervised.

437.4.6 Fencing - permanent - within 15 days of filling

The temporary fencing must be replaced by permanent fencing described in Articles 2, 5 and 6 within 15 days of filling the pool with water.

437.4.7 Utilities - notified - 48 hours - prior to excavation

It is the responsibility of the property owner and/or the pool installer to notify local utilities forty-eight hours prior to excavating for a pool. By-law 103-91, 24 June, 1991.

Article 5**FENCING - REQUIREMENTS****437.5.1 Requirements - specifications - set out - including gates**

Every swimming pool shall be enclosed with fencing including gates, in accordance with one or more of the specifications set out in this Article.

437.5.2 Chain link - minimum 9 gauge - link size - height

For single-family and semi-detached residential purposes, chain link fencing (minimum 9 gauge), with links not exceeding 40 mm (1.5 inches) may be used and shall extend from the ground for a height of not less than 1.22 m. By-law 103-91, 24 June, 1991; By-law 98-97, 30 June, 1997.

437.5.3 Chain link - minimum 11 gauge - link size - height

Chain link fencing (minimum 11 gauge), with links not exceeding 50 mm (2 inches) may be used provided such fencing shall extend from the ground for a height of not less than 1.52 m (5 feet). The bottom of the chain link fence must be secure and can be no more than 100 mm (4 inches) above the exterior grade adjacent to said fence. By-law 103-91, 24 June, 1991.

437.5.4 Wood - solid panels - pickets - height - spacing - rails

For single-family and semi-detached residential purposes, fencing of solid panels or vertical pickets or vertical boards, may be used and shall extend from the ground for a height of not less than 1.22 m (4 foot). Openings between pickets, boards or panels shall not exceed 40 mm (1.5 inches). Horizontal rails must be on the pool side of the fence.

437.5.5 Metal - solid panels - pickets - height - spacing - rails

A wrought iron or other metal type fencing or fencing of solid panels or vertical boards may be used, provided that the fencing shall extend from ground to a height of not less than 1.52 m (5 feet), and provided that:

- (a) the bottom of the fence is not more than 100 mm (4 inches) above the exterior grade adjacent to the fence; and
- (b) openings between vertical metal pickets of six or seven gauge wire are spaced not more than 50 mm (1.9 inches) centre to centre and horizontal rails are of six or seven gauge wire or openings between pickets, boards or panels do not exceed 100

mm (4 inches) and horizontal rails are spaced at least 1.22 m (4 feet) apart measured vertically with horizontal rails located on the pool side of the fence. By-law 103-91, 24 June, 1991; By-law 98-97, 30 June, 1997.

437.5.6 Wall - part of enclosure - permitted - requirements

A wall or one or more walls of a building may be used provided said wall is at least 1.22 m (4 feet) in height and has no hedge or step closer than 1.22 m (4 feet) above the ground, measured vertically and that if the said wall of a building contains any opening which could provide a means of ingress or egress to the swimming pool, that such openings are kept locked at all times when such swimming pool is not under competent supervision. By-law 103-91, 24 June, 1991.

437.5.7 Chief Building Official - approval

The Chief building Official may approve plans for the construction of a swimming pool enclosure that is a fence, wall or other structure where it provides an equivalent enclosure to that specified in this Chapter. By-law 150-2006, 16 October, 2006.

437.5.8 Hot Tubs

Notwithstanding Section 437.5.1 of this Chapter, when any swimming pool is a hot tub, the owner of such swimming pool shall ensure that:

1. All fencing provisions of this By-law are complied with; or
2. Such hot tub is fitted with a tight fitted rigid cover that is capable of supporting a 90 kg load or meets the American Society for Testing and Materials standard for hot tubs, and such cover is securely fastened and locked in place at all times when the hot tub is not in use. By-law 33-2019. 26 March, 2019.

Article 6

**DISCHARGE OF WATER FROM SWIMMING POOLS
ONTO THE LANDS OF ADJOINING PROPERTY
OWNERS**

437.6.1 Swimming pool water - discharge

No person shall discharge wastewater from a swimming pool in any manner that may cause or causes the wastewater to flow onto an adjoining property.

437.6.2 Exception - discharge to storm sewer

Section 437.6.1 shall not apply to prohibit the discharge of wastewater to a storm sewer, including a storm sewer located within a City road allowance, unless such discharge is prohibited in Chapter 281 of the City of Brantford Municipal Code.

437.6.3 Exception - express consent

Section 437.6.1 shall not apply to prohibit the discharge of wastewater onto an adjoining property if the owner of the adjoining property has given express consent for such discharge. By-law 123-2008, 8 September, 2008

Article 7
ENFORCEMENT

437.7.1 Fine - for contravention

Any person found to be in contravention of any portion of this Chapter is guilty of an offence and is subject to a penalty as prescribed in the Provincial Offences Act.

437.7.2 Continuation - repetition - separate offence - daily

Where an offence under this Chapter is a continuing offence, charges may be laid for each day during which the offence continues.

Article 8
REPEAL - ENACTMENT

437.8.1 By-law - previous

By-law 103-64 of The Corporation of the City of Brantford is hereby repealed.

437.8.2 Effective date

This Chapter shall come into full force and effect on the date of passing of the enabling by-law. By-law 103-91, 24 June, 1991. By-law 123-2008, 8 September, 2008.