

**City of Hamilton By-Law 16-184 to Regulate Enclosures for Privately-Owned Outdoor Pools
Summary of Sections 13-29 (Effective Date January 1, 2017)**

ENCLOSURES

General

13. Every owner shall construct and maintain an enclosure that:

- is a minimum of 1.5 m in height measured from the effective ground level on the outside of the enclosure;
- has no openings when gates are closed allowing passage of spherical object larger than 100 mm (4") in diameter;
- is located at least 1.0 m (3'-3") from nearest inside pool wall; and
- has nothing that facilitates climbing the enclosure or diminishes the structural integrity of the enclosure.

14. Every fence and gate used as part of an enclosure which forms the part of the enclosure that separates the pool from any dwelling on the same property shall be constructed of open mesh chain link fence or equivalent open face construction that does not restrict visibility of the pool from any door or window that is located on the access level of the dwelling, and which has a line of sight to the pool, and materials used shall comply with the provisions of this By-law.

15. No owner shall construct or maintain an enclosure that is in whole or in part: an overhead garage door; a hedge or other vegetation; barbed wire, chicken wire or any other barbed or sharp material; or a conductor of electricity.

Landscape Ponds

16. An owner may construct and maintain a landscape pond with a securely fastened grate or similar structure: capable, at any point, of preventing a person of any size from descending to a depth in excess of 0.6 m; openings of not more than 38 mm. Where a landscape pond cannot or is not constructed and maintained with a grate in accordance with subsection 16(1), the owner shall construct and maintain an enclosure that otherwise complies with this By-law.

Gates

17. Every owner shall construct and maintain any gate to an enclosure with: a self-closing device; a self-latching device on the inside of the enclosure that is located at least 1.35 m above the bottom of the enclosure; a lock located on the inside of the enclosure; and be of such construction and height that the gate otherwise complies with the requirements of this By-law for the enclosure.

18. A secondary gate may be constructed and maintained with a lock located on the inside of the enclosure.

19. Every owner and every adult person in control of a pool shall ensure all gates to an enclosure: that are not secondary gates under section 18, are closed and locked at all times except when the owner or a person with the owner's permission is entering, leaving or using the pool; and that are secondary gates under section 18, are closed and locked at all times except when in use to allow for the passage of vehicles or equipment.

Fences

20. Every owner shall construct and maintain a **chain link fence** that forms all or part of an enclosure with:

- Diamond mesh: openings not more than 38 mm; and of 12 gauge galvanized steel wire or 14 gauge galvanized steel wire covered with a vinyl or other approved coating giving a total thickness equivalent to 12 gauge galvanized steel wire.
- Support posts be constructed: of galvanized steel; at intervals of not more than 3.0 m; securely imbedded at least 1.2 m below grade; encased in concrete below grade with at least a 50 mm cover on sides and base; (v) which are end or corner posts, a minimum of 48 mm in diameter; and which are intermediate posts, a minimum of 38 mm in diameter; and
- Horizontal top rail and bottom rail of galvanized or vinyl coated steel a minimum of 32 mm in diameter.

21. Every owner shall construct and maintain a **vertical board fence** that forms all or part of an enclosure with:

- Boards: of not less than 19 mm by 89 mm; attached to a top and bottom rail; and spaced at not more than 38 mm or, if a board on board design, at not more than 100 mm;
- Support posts: at intervals of not more 2.4 m; securely embedded at least 1.2 m below grade; encased in concrete below grade with at least a 50 mm cover on sides and base; made, below grade, of natural cedar, pressure-treated wood or treated with a wood preservative that is acceptable to the Director; a minimum of 89 mm by 89 mm square; and
- Horizontal top rail and bottom rail: of not less than 38 mm by 89 mm, and, where the space between the boards is permitted to be greater than 38 mm, the top and bottom rails shall be spaced to provide a minimum clearance of 1.2 m between the rails.

22. Every owner shall construct and maintain a **wrought iron, aluminum or vinyl fence** that forms all or part of an enclosure with sufficient strength to provide an effective enclosure; no openings allowing the passage of a spherical object larger than 100 mm in diameter; Support posts: at intervals of not more 3.0 m; securely imbedded at least 1.2 m below grade and encased in concrete below grade at least 50 mm thick; and a horizontal top rail and bottom rail at least 1.2 m apart.

Walls

23. Every owner shall ensure all openings in a wall of a building or structure which forms all or part of an enclosure, and could provide a means of ingress directory into the swimming pool area, are protected by a door, window or other covering and kept closed and locked at all times when such swimming pool is not under competent supervision.

Above-Ground Pools

24. Every owner shall construct and maintain their above-ground pool with: a total combined height of the above ground pool walls and enclosure guard that: is not less than 1.5 m in height; and does not facilitate climbing; and any area that provides access to the above-ground pool surrounded by an enclosure which complies with the requirements for enclosures set out in this By-law.

25. Where an above-ground pool cannot or is not constructed and maintained in accordance with section 24, the owner shall construct and maintain an enclosure that otherwise complies with this By-law.

Hot Tubs

26. (1) Every owner shall construct and maintain their hot tub with a rigid cover that is capable of supporting a 90 kg load or meets the most up-to-date American Society for Testing and Materials standard for hot tubs.

(2) Every owner and every adult person in control of a hot tub shall ensure that the rigid cover under subsection 26(1) is securely fastened and locked to prevent access at all times when the hot tub is not in use.

27. Where a hot tub cannot or is not constructed and maintained with a rigid cover in accordance with section 26, the owner shall construct and maintain an enclosure that otherwise complies with this By-law.

Temporary Enclosures

28. (1) Every owner shall construct and maintain a temporary enclosure surrounding their pool when the pool does not have, for any reason, an enclosure that otherwise complies with this By-law.

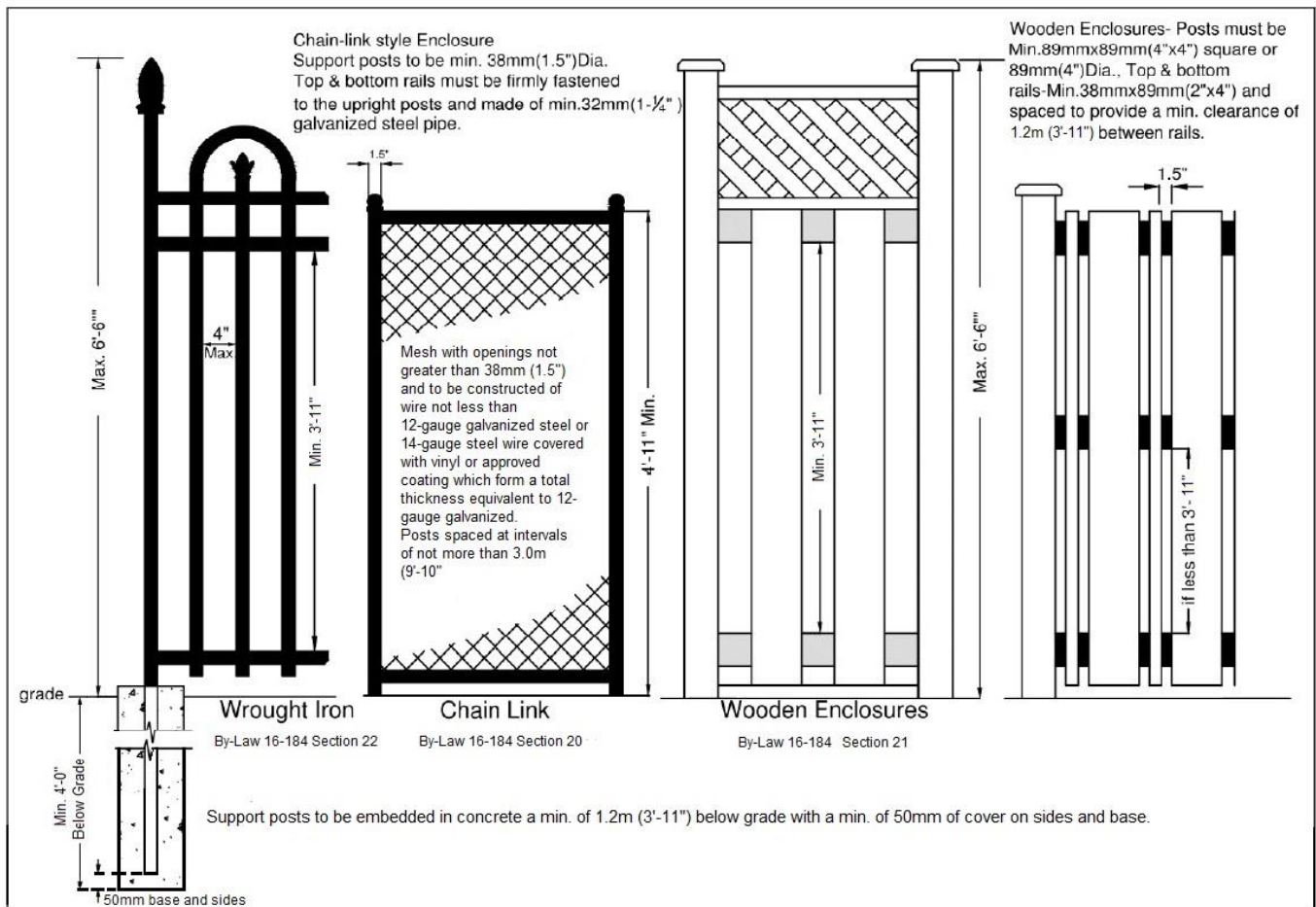
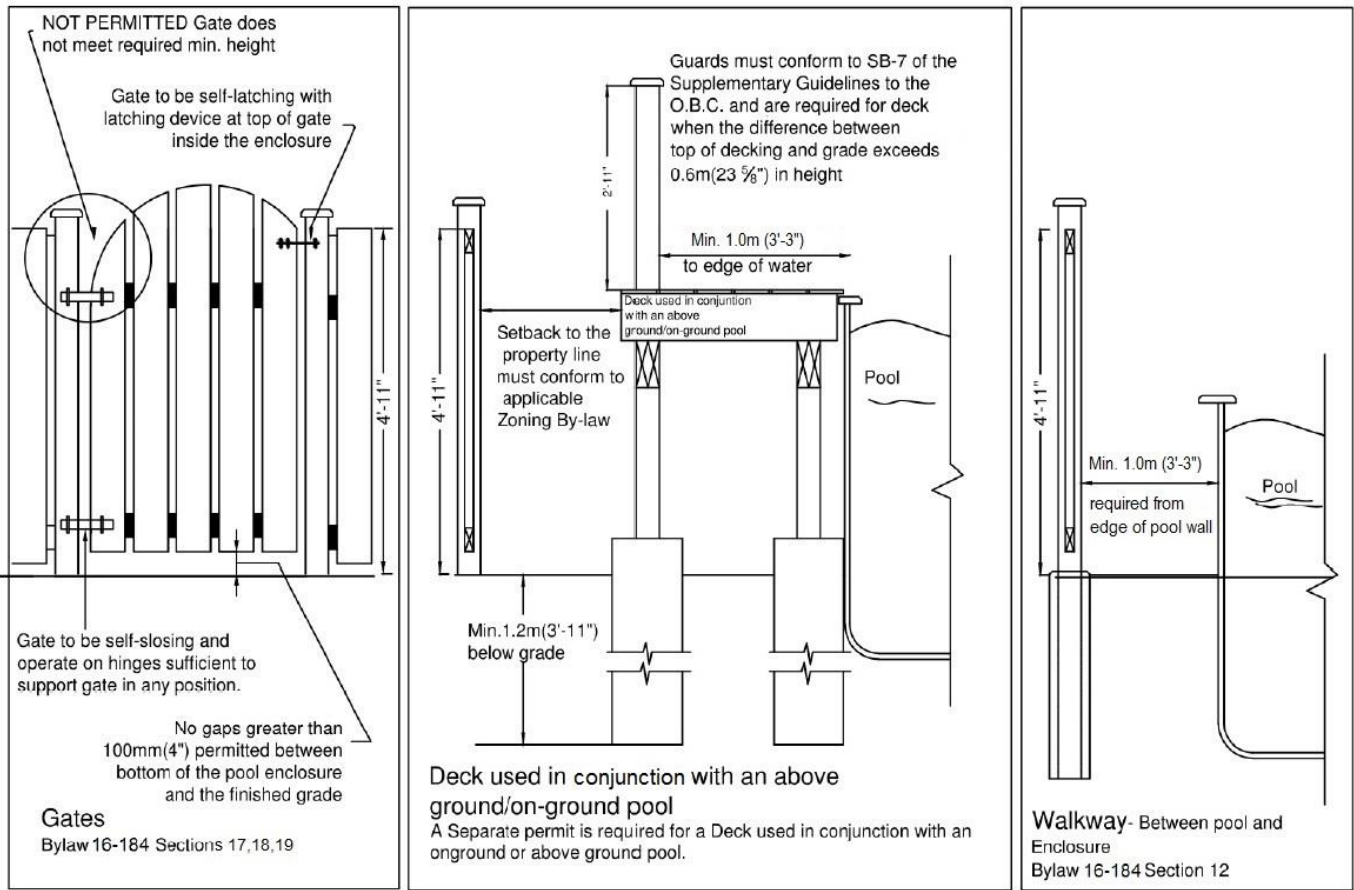
(2) Unless otherwise authorized by the Director, a temporary enclosure is permitted for not more than 7 consecutive days to allow time for the owner to construct and maintain a permanent enclosure that complies with this By-law.

29. (1) Every owner shall construct and maintain a temporary enclosure with: diamond mesh fencing: with openings of not more than 38 mm; of either 12 or 14 gauge galvanized steel wire; and securely fastened to the support posts at 200 mm centres; "T" support posts: of steel; at intervals of not more than 2.4 m; and securely imbedded at least 300 mm below grade; a horizontal top cable and bottom cable: of 11 gauge steel; and threaded through the diamond mesh fencing and securely fastened to each support post; and no openings, when all openings that provide access are closed, allowing the passage of a spherical object larger than 100 mm in diameter.

(2) Every owner and every adult person in control of a pool surrounded by a temporary enclosure shall ensure that every opening providing access to the pool is closed and locked at all times except when the owner or a person with the owner's permission is entering or leaving.

*** The installation of a swimming pool may require a Site Alteration Permit if the grade of the property is being altered by more than 200mm (8") within 3.0m (9'-10") of the property line, if a retaining wall is being installed within 3.0m (9'-10") of the property line, if the grade is being altered by more than 500mm (19 5/8") on the property, or if the placement or removal of fill obstructs the flow of water in a watercourse or causes water, which is normally contained on the property, to drain off site. For further details contact the City of Hamilton - Growth Management Division: (905) 546-2424 x5339 ***

Pool Enclosure By-Law 16-184



NOTE: DIAGRAMS ABOVE ARE FOR REFERENCE ONLY - REGULATIONS ARE AS PER BY-LAW 16-184