By-law No. 142-2014

Corporation of the Municipality of Chatham-Kent

Being a By-law to prescribe the height, description and manner of building and maintaining fences

Whereas Section 10(2) paragraph 10 of the Municipal Act, 2001 S.O. 2001, c.25, as amended, provides that a single tier municipality may pass bylaws respecting structures, including fences.

And Whereas it is deemed desirable to establish regulations concerning fences for the Municipality of Chatham-Kent

Now Therefore the Council of the Municipality of Chatham-Kent enacts as follows:

Definitions

1. For the purpose of this By-Law;

"Agricultural Lot" means any lot in which the primary use complies with the "Agricultural Use" as defined by the Zoning By-Law;

"Alley" means a public right-of-way that affords a secondary means of access to the abutting lots;

"Building" means any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals or goods, but does not include a lawful boundary wall or fence;

"Chief Building Official" means the person appointed as such by the Council of the Municipality under Section 3 of the *Building Code Act, 1992,* S.O. 1992, c.23, as amended;

"Corner Lot" means a lot situated at the intersection of and abutting upon two streets, or upon two parts of the same street, the adjacent sides of which street or streets (or, in the case of a curved corner, the tangents of the street extremities of the side lot line) contain an angle of not more than 135 degrees. In the case of a curved corner the corner of the building lot shall be the point on the street line nearest to the point of intersection of the said tangents;

"Fence" means any continuous barrier made of chain, wood, stone, masonry, wrought iron, lattice work, screen or other such material used to enclose or divide in whole or in part a yard or other land or constructed, installed along the perimeter of lands so as to give the inference that the barrier is intended to delineate the boundaries of the lands and also includes a privacy screen as defined in this By-Law. Any berm, retaining wall or other such man-made structure upon which a fence is built shall be deemed to be part of the fence;

"Gate" means any part of a fence that opens on hinges or which is not rigidly fixed in position;

"Ground Level" means the ground level at the fence line, but where the ground levels are not the same on both sides of the fence, the higher of such levels shall be considered as ground level for
the purpose of the fence;

"Hedge" means any vegetation, tree, and bush or plant growth;

"Height" means the distance measured from the ground level to the top of the said fence or part thereof. In the case of a hedge, the distance from ground level to the top of the growth;

"Lot Line" means the zone boundaries are not shown to be streets or lanes, and where indicated boundaries on the Zoning Map are approximately lot lines, the said lot lines shall be construed to be the zone boundaries unless said boundaries are otherwise indicated on the map.

"Municipality" means the Corporation of the Municipality of Chatham-Kent;

"Non-Residential Lot" means any lot not zoned residential in the Zoning By-Law and includes but is not restricted to Industrial Zones, Commercial Zones, Institutional Zones, Open Space Zones and Environmental Zones;

“Picket” means the vertical member of a fence located between the fence posts;

"Privacy Screen" means a visual barrier used to shield any part of a yard from view from any adjacent yard, parcel or highway;

"Residential Lot" means any lot in which the primary use complies with the "Residential Use” as defined by the Zoning By-Law;

"Salvage Yard" means any land or structure used for the storage of used motor vehicles, farm machinery, metal, plastic, vinyl and household appliances, in whole or in part for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other off-site disposal;

"Visibility Triangle" means a triangular area formed within a lot by;

(a) intersecting streets and a straight line connecting them 7.6 m (25ft.) from their point of intersection; or
(b) the intersection of a street and any portion of a driveway within 7.6 m (25ft.) of a property line and a straight line connecting them 7.6 m (25ft.) from their point of intersection.
(c) the intersection of an alley and a street, or two alleys and a straight line connecting them 3.0 m (10ft.) from their point of intersection.

"Yard, Front" means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of the main building on the lot. Where adjacent residential lots have differing building lines, the main building closest to the front lot line shall apply. Where a lot is a corner lot, the shortest line abutting the street is the front lot line;

"Yard, Rear" means a yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of the main building on the lot;

"Yard, Side" means a yard extending from the front yard to the rear yard and from the side lot line of the lot to the nearest part of the main building on the lot;

"Yard, Side, Exterior" means a side yard immediately adjoining a public street;

"Yard, Side, Interior" means a side yard other than an exterior side yard;

"Zone" means an area delineated on a Map Schedule of the Zoning By-Law;

"Zoning By-Law" means any By-Law administered by the Municipality that was passed pursuant to section 34 of the *Planning Act,* R.S.O. 1990, c.P.13, as amended;

2. No person shall erect, construct, maintain, cause or permit to be erected, constructed or maintained, any fence that does not comply with the provisions of this By-Law, unless such fence was erected in compliance with a predecessor of this bylaw and has not been moved, altered or enlarged in any way.

3. No person shall, without having authority to do so, erect, construct or maintain or cause or permit to be erected, constructed or maintained, in or upon any street, alley or highway any fence, pole, post, pillar or wire or other such construction.

4. No person shall erect a fence, hedge or other obstruction that will in any way obstruct the use of a fire hydrant or interfere with the operations of the Chatham-Kent Fire and Emergency Services. Not less than a one (1) metre clear space shall be maintained around the circumference of a fire hydrant.

Fences on Residential Lots

5. No person shall erect, construct or cause or permit to be erected or constructed, a fence on residential lot except in accordance with the following:

   (1) A fence within any front yard shall not exceed a height of .76 m (30 in.).
   (2) A fence within any rear yard or side yard shall not exceed a height of 2.1 m (7ft.).
   (3) No fence or hedge exceeding a height of .76 m (30 in.) shall be erected within any visibility triangle.
   (4) Notwithstanding subsection 5(1) herein, where a front yard abuts a rear yard of an adjacent corner lot, a fence not exceeding a height of 2.1 m (7ft.) may be erected along that portion of the lot line between said lots provided, however, that the restrictions in subsection 5(3) with respect to visibility triangles must be complied with.

6. Notwithstanding subsection 5(1) herein, a fence within any front yard may exceed a height of .76m (30 in), to a maximum height of 1.5 m (5 ft.), provided that:

   (1) the picket size shall not exceed a maximum width of a 1.90cm (3/4 in).
   (2) the distance between the pickets shall not be less than 10cm (4 in).
   (3) pickets less than 1.2m (4 ft.) tall shall have blunt ends.
   (4) the maximum width of the vertical post or horizontal rail shall not exceed 6.35 cm (2.5 in).
   (5) fences that surround the entire perimeter of the property shall be equipped with an opening in the front yard not less than 91 cm (3 ft.), and if equipped with a gate, such gates shall be non-lockable and the path through the opening shall be kept clear at all times, and
   (6) materials used must be compatible with the residential structure and the scheme of the general neighborhood at the discretion of the Chief Building Official.

   A fence installed pursuant to this section shall not be composed of chain link, chicken wire, hog wire, fiberglass and such materials, and the fence shall be free of vegetation that would cause a visual barrier.

Fences on Non-Residential or Non-Agricultural Lots

7. No person shall erect, construct or cause or permit to be erected or constructed, a fence on a lot that is not a Residential or an Agricultural lot except in accordance with the following regulations:

   (1) A fence within any front, rear or side yard shall not exceed a height of 3.0 m (10ft.).
   (2) A fence to enclose a front yard shall be set back from the front lot line a minimum of 4.6 m (15ft.).
   (3) No fence or hedge exceeding a height of .76 m (30 in.) shall be located in any visibility triangle.
   (4) No fence exceeding a height of 2.1 m (7ft.) shall be located within any front, rear or side yard that abuts a residential lot.

Fences on Agricultural Lots

8. No person shall erect, construct or cause or permit to be erected or constructed, a fence on an
   Agricultural lot except in accordance with the following regulations:

   (1) A fence within any front, rear or side yard shall not exceed a height of 2.1 m (7ft.).
   (2) No fence or hedge exceeding a height of .76 (30 in.) shall be erected in any visibility triangle.
   (3) Notwithstanding 6(1) herein, where a front yard abuts the rear yard of an adjacent corner lot, a fence not exceeding a height of 2.1 m (7ft.) may be erected along that portion of the lot line between said lots provided, however, that the restrictions in subsection 6(2) with respect to visibility triangles must be complied with.

Fencing of Salvage Yards

9. (1) Notwithstanding any other provision of this By-Law, no person shall establish, operate or maintain or cause or permit the establishment, operation or maintenance of a salvage yard unless the land on which the salvage yard is located is fenced.

(2) No person shall erect or construct or cause or permit to be erected or constructed, a fence on a lot used as a salvage yard except in accordance with the following provisions:

(a) Except as provided in clause (c) of this subsection, a fence within any front, rear or side yard shall be not less than 3.0 m (10ft.) and not greater than 4.6 m (15ft.).

(b) A fence to enclose a front yard shall be set back from the front lot line a minimum of 4.6 m (15ft.).

(c) Notwithstanding clauses (a) and (d) of this subsection, no fence exceeding a height of 76cm (30 in.) shall be erected in any visibility triangle.

(d) Except as provided in clause (c) of this subsection, a fence in any yard shall be of consistent height and material and shall be fully screened.

Fencing of Manure Storage Tanks/Pits

10. (1) Notwithstanding any other provision of this By-Law, no person shall construct or maintain a manure storage tank/pit unless the tank/pit is effectively fenced or enclosed.

(2) No person shall erect, construct or cause or permit to be erected or constructed, a fence enclosing a manure storage tank/pit except in accordance with the following provisions:

(a) A fence shall be constructed to a total height of not less than 2.1 m (7ft.) above the surrounding grade level.

(b) The fence shall be adequately supported top and bottom so as to restrict unauthorized entry.

Barbed Wire Fences

11. (1) No person shall erect or construct or cause or permit to be erected or constructed, a fence composed wholly, or in part, of barbed wire or any other barbed material except in accordance with the following regulations:

(a) Barbed wire is permitted in a non-residential zone on the top of a fence, provided it projects inwards to the area enclosed by the fence. The height of the said fence shall be not less than 2.1 (7ft) prior to the addition of the barbed wire, provided further, however, that this shall not be construed to prohibit a barbed wire fence enclosing land assessed for farm purposes.

(b) Barbed tape shall be permitted on the top of a fence erected on a non-residential lot, provided that the fence height is not less than 2.1 m (7ft.) prior to the addition of the barbed tape.

Electric Fences

12. No person shall erect or construct or cause or permit to be erected or constructed any fence equipped with a device for transmitting an electric current on or through a fence except in accordance with the following provisions:

(1) Electric fences are only permitted in areas zoned Agricultural by the applicable Zoning By-Law.

(2) Notwithstanding subsection 12(1), electric fences shall not be permitted on residential lots.

(3) An electric fence shall have permanent signs, identifying the presence of electrical current, affixed to it. Such signs shall be clearly visible at a distance of 7.6 m (25ft.).

(4) No electric fence shall be located adjacent to any residential lot.

Privacy Screens

13. Notwithstanding Sections 1 and 4 of this By-Law, no person shall construct or use a privacy screen in any front yard of a residential lot. Compact evergreen hedges and other similar organic barrier are permitted, but remain subject to the height limitations as specified in Section 4 of this By-Law.

Minor Variance

14. (1) The Committee of Adjustment of the Municipality is hereby appointed a Standing Committee of the Council for the purpose of enquiring into and reporting on any applications for minor variances from the provisions of this By-law.
(2) The Committee may recommend that any application be refused or that such relief as it considers appropriate to be granted either absolutely or subject to conditions.
(3) The Committee is directed to follow its usual procedure on such application, as may be practical.
(4) The Clerk shall place all reports made by the Committee of Adjustment under this section before the Council for approval.
(5) The Council's usual rules respecting delegations will apply to persons desiring to make representations in support of or against a Committee of Adjustment recommendation made under this section.

15. This By-Law shall be enforced by the Chief Building Official.

16. A Municipal By-law Enforcement Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(1) this By-law; or
(2) any direction, requirement or order made under this By-law;

17. If a Municipal By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened this By-law or who caused or permitted the contravention, or the Owner or occupier of the property on which the contravention occurred to discontinue the contravening activity and do work to correct the contravention. An order shall set out:
(1) reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred;
(2) the date and time by which there must be compliance with the order; and
(3) the work to be completed.

18. An order to make under this bylaw may be served personally or by registered mail to the last known address of the owner of the property. Service by registered mail shall be deemed to have taken place five business days after the date of mailing. In addition an order may be served by a Municipal By-law Enforcement Officer by placing a placard containing the order in a conspicuous place on the property where the contravention occurred.

19. Every person who contravenes any provision of this By-Law is guilty of an offence and is liable, upon conviction to a fine not exceeding five thousand dollars ($5000.00) exclusive of costs for each offence recoverable under the *Provincial Offences Act,* R. S.O. 1990, c. P.33, as amended.

20. It is hereby declared that each and every part of the foregoing provisions of this By-Law is severable. If any provision of this By-Law should for any reason be declared invalid by any Court, it is the intention and desire of this Council that each and every one of the then remaining provisions herein shall remain in full force and effect.

Repeals

21. The following By-Laws are hereby repealed:

Municipality of Chatham-Kent By-Law No.223-2003

This By-Law shall come into full force and effect on the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 8th day of September, 2014.

_____
Mayor Randy R. Hope

_____
Clerk – Judy Smith

By-law No. 124-2016

Of The Corporation of the Municipality of Chatham-Kent

A By-law to amend By-law Number 142-2014, of The Corporation of the Municipality of Chatham-Kent respecting the prescription of the height, description and manner of building and maintaining fences.

Finally Passed the 3rd day of October, 2016

Whereas Council of the Corporation of the Municipality of Chatham-Kent passed By-Law Number 142-2014 at its meeting on the 8th day of September, 2014;

And Whereas the Corporation of the Municipality of Chatham-Kent now deems it expedient to amend certain sections of By-Law Number 142-2014;

Now Therefore the Municipal Council of the Corporation of the Municipality of Chatham-Kent enacts as follows:

1. By-law 142-2014 is amended by replacing section 14 with the following:

14.01 The Committee of Adjustment of the Municipality is hereby appointed a Committee of the Council for the purpose of enquiring into and making final decisions on any applications for minor variances from the provisions of this By-law.

14.02 The Committee may decide that any application be refused or that such relief as it considers appropriate to be granted either absolutely or subject to conditions, which decision is not subject to appeal.

14.03 The Committee is directed to follow its usual procedure on such application, as may be practical.

THIS By-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME THIS 3rd day of October, 2016

_____
Mayor – Randy R. Hope

_____
Clerk - Judy Smith

By-law No. 50-2019

Of The Corporation of the Municipality of Chatham-Kent

A By-law to amend By-law Number 142-2014, of The Corporation of the Municipality of Chatham-Kent respecting the prescription of the height, description and manner of building and maintaining fences

Whereas Council of the Corporation of the Municipality of Chatham-Kent passed By-Law Number 142-2014 at its meeting on the 8th day of September, 2014;

And Whereas the Corporation of the Municipality of Chatham-Kent now deems it expedient to amend certain sections of By-Law Number 142-2014;

Now Therefore be it and is hereby enacted as By-law No. 50-2019 of the Corporation of the Municipality of Chatham-Kent:

1. That By-law 142-2014, as amended, of the Municipality of Chatham-Kent, be amended by:

    1.1 Adding the following Section following Section 10 – Fencing of Manure Storage Tanks/Pits:

    Fencing of Cannabis Production Facilities

    11. Notwithstanding any other part of this By-law, a Cannabis Production Facility, as defined in the Zoning By-law, is exempt from the following sections of this By-law: 7(1) & (4); 8(1) & (3).

    1.2 Amending all references to Definitions, Sections, Subsections, and Provision Numbers, as amended by this by-law.

THIS By-law shall come into full force and effect upon final approval of Amendment No. 55 to the Chatham-Kent Official Plan.

Read a First, Second and Third Time this 25th day of March, 2019

Original signed by:

_____
Mayor – Darrin Canniff

Original signed by:

_____
Clerk - Judy Smith

MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER 125-2008

Being a By-Law respecting the erecting and maintaining of enclosures and gates surrounding privately owned outdoor swimming pools

WHEREAS the Council of the Corporation of the Municipality of Chatham-Kent may receive complaints relating to privately owned outdoor swimming pools that are improperly secured;

AND WHEREAS the Council of the Corporation of the Municipality of Chatham-Kent may pass by-laws to regulate and prohibit matters pertaining to fences and as part of that power, to provide for a system of approvals and to impose conditions as requirements of obtaining, continuing to hold or renewing the approval;

AND WHEREAS it is the opinion of Council of the Municipality of Chatham-Kent that improperly secured privately owned outdoor swimming pools pose a safety hazard;

AND WHEREAS section 446 of the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time, permits Municipal Councils to enact by-laws that provide that where the municipality may lawfully direct or require that a matter or thing be done, the municipality may do such matter or thing at the expense of the person directed or required to do it if that person is in default of such direction or requirement;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT enacts as follows:

1.0 SHORT TITLE

1.1 This by-law may be cited as the "Swimming Pool Enclosure By-law".

2.0 DEFINITIONS AND INTERPRETATION

2.1 In this by-law,

"Building" means any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals or goods, but does not include a lawful boundary wall or fence.

"Chief Building Official" means the person appointed as such by the Council of the Municipality under Section 3 of the Building Code Act, 1992, S.O. 1992, c.23, as amended.

"Fence" means any continuous barrier or structure made of chain, wood, stone, masonry, lattice work, screen or other such material used to enclose or divide in whole or in part a yard or other land or constructed, installed along the perimeter of lands so as to give the inference that the barrier is intended to delineate the boundaries of the lands and also includes a privacy screen as defined in this by-law. Any berm, retaining wall or other such man-made structure upon which a fence is built shall be deemed to be part of the fence.

"Gate" means any part of a fence that opens on hinges or which is not rigidly fixed in place.

"Ground Level" means the ground level at the fence line, but where the ground levels are not the same on both sides of the fence, the higher of such levels shall be considered as ground level for the purpose of the fence.

"Height" means the distance measured from the ground level to the top of the said fence or part thereof.

"Hot Tub" means a structure, basin, chamber or tank containing or capable of containing water which:

- has a depth of more than 60 cm (24 in.) at any point;
- is intended to be used for wading or soaking;
- is not intended to be used for swimming; and
- is equipped with a lockable cover.

"Locking Device" a device used to secure a door, gate or cover.

"Lot Line" means any boundary of a lot.

"**Municipality"** means either The Corporation of the Municipality of Chatham-Kent or the Municipality of Chatham-Kent, whatever the context requires.

"Occupant" means any person or persons over the age of eighteen years in possession of a property.

"Outdoor Swimming Pool" means a structure, basin, chamber, or tank containing or capable of containing water and is designed to be used for swimming or wading and which:

- has a depth of more than 60 cm (24 in.) at any point;
- has a surface area of more than 1.0 sq. m (10.8 sq. ft.);
- is not completely inside a building; and
- is not owned by government or a local board or commission constituted under any by-law or statute.

A pond or reservoir to be utilized for farming purposes and storm water management ponds shall be deemed not to be an "Outdoor Swimming Pool" for the purposes of this by-law.

The words "Swimming pool" and "Pool" shall have a corresponding meaning.

"Owner" means the registered owner or any person, firm or corporation having control over, or possession of any portion of the building or property and includes the persons occupying the building or property.

"Privacy Screen" means a visual barrier used to shield any part of a yard from view from any adjacent yard, parcel or highway.

"Property Standards Officer" means a person designated as such by a resolution or by-law of Council of the Municipality of Chatham-Kent.

"Residential Lot" means any lot in which the primary use complies with the "Residential Use" as defined by the Zoning by-law.

"Self-Closing Device" means a mechanical device or spring that returns a gate to a closed position within 30 seconds after it has been left open.

"Self-Latching Device" means a mechanical device or latch that is engaged each time the gate it secures is closed; a self-latching device must not allow the gate to be reopened by pushing or pulling on the gate, it must remain fastened until unlatched.

"Swimming Pool Enclosure" means a fence or wall or combination thereof, including any doors or gates surrounding a privately-owned outdoor swimming pool and restricting access thereto.

"Visibility Triangle" means a triangular area formed within a lot by:

- intersecting streets and a straight line connecting them 7.6 m (25 ft.) from their point of intersection; or
- the intersection of a street and any portion of a driveway within 7.6 m (25 ft.) of a property line and a straight line connecting them 7.6 m (25 ft.) from their point of intersection; or
- the intersection of an alley and a street, or two alleys and a straight line connecting them 3.0 m (10 ft.) from their point of intersection.

"Yard, Rear" means a yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of the main building on the lot.

3.0 APPLICATION OF BY-LAW

3.1 This by-law shall apply to all lands within the geographic limits of the Municipality.

3.2 This by-law shall not apply to:

(a) swimming pools located completely inside a building;

(b) existing swimming pool enclosure erected in compliance with a predecessor of this by-law provided that the said enclosure has not been moved, altered or enlarged;

(c) Hot Tub provided that it may be adequately secured by a cover equipped with a

locking device, and that such cover is closed and locked in place over the Hot Tub when the Hot Tub is not in use.

4.0 GENERAL PROVISIONS

4.1 Notwithstanding any other provision of this by-law, no owner or occupant shall construct or maintain an outdoor swimming pool unless the pool is fenced or enclosed in accordance with the provisions of this section.

4.2 The requirements of this by-law with respect to swimming pool enclosures apply equally to all swimming pools regardless of their designation as in ground, above ground or on ground.

4.3 No owner or occupant shall:

(a) locate, erect, construct, replace, or install or cause or permit to be located, erected, constructed, replaced or installed a swimming pool enclosure unless a permit has been issued by the Municipality pursuant to this by-law;

(b) erect or maintain or cause to be erected or maintained a swimming pool enclosure around the entire swimming pool except in accordance with the provisions of this by-law;

(c) locate a swimming pool enclosure within a visibility triangle;

(d) place, cause or permit water to be placed or to remain in a swimming pool unless a swimming pool enclosure has been erected in accordance with the requirements of this by-law and a final inspection of the swimming pool enclosure has been performed and been passed by the Municipality and unless the person maintains the swimming pool enclosure in a good state of repair in accordance with the standards of this by-law;

(e) use the swimming pool unless a swimming pool enclosure has been erected in accordance with the requirements of this by-law and a final inspection of the swimming pool enclosure has been performed and been passed by the Municipality and unless the person maintains the swimming pool enclosure in a good state of repair in accordance with the standards of this by-law;

(f) allow, cause or permit a swimming pool enclosure to deteriorate such that it no longer functions and/or complies with the requirements of this by-law.

5.0 APPLICATION FOR SWIMMING POOL ENCLOSURE

5.1 An application for a permit to erect a new swimming pool enclosure or for the replacement or alteration of an existing swimming pool enclosure shall be made by the owner or occupant on such forms as may be prescribed by the Municipality.

5.2 Documentation to accompany application shall include:

(a) site plan showing:

(i) location of the swimming pool, deck (if applicable), pump, filter and proposed swimming pool enclosure in relation to all existing property lines, and man made structures located on the property [i.e. decks, sheds, buildings, etc.]. This plan shall also show any natural or man-made features, which are located closer than 1.22 m (4.0 ft) from the exterior of the swimming pool which could facilitate the climbing of the swimming pool enclosure;

(ii) location and size of all gates that provide access through the swimming pool enclosure into the swimming pool area.

(b) swimming pool enclosure details including:

(i) exterior elevations of the swimming pool enclosure;

(ii) type of fencing to be installed [i.e. chain link, pressure treated wood, etc.];

(iii) type and size of all members that comprise the swimming pool enclosure;

(iv) dimensions showing the height of the swimming pool enclosure, as well as spacing of all horizontal and vertical members;

(v) details and dimensions showing how the swimming pool enclosure is to be anchored to the ground;

(vi) location of any main entrances to building or structure, if such structure is part of the proposed enclosure.

(c) gate details are to be provided for every gate that forms part of the swimming pool enclosure including:

(i) all of the information notes in (b) above;

(ii) type and location of any self-closing device;

(iii) type and location of any self-latching device.

5.3 The permit fee and damage deposit are required at the time of application and shall be in accordance with Schedule A of Municipality of Chatham-Kent Building By-law No. 268-2005. The damage deposit will be refunded once a final inspection of the pool enclosure has been completed and passed by the Municipality.

5.4 The Chief Building Official may revoke a permit where it was issued on mistaken or false information and shall provide written notice to the permit holder of the revocation.

5.5 For the purpose of this by-law:

(a) The distance between horizontal boards, bars, pipes, rails or other materials used for a swimming pool enclosure shall be measured from the top of the upper horizontal piece of material, to the top of the next lower horizontal piece of material used to construct the swimming pool enclosure.

(b) The distance between vertical boards, bars, pipes, rails, or other materials are measured from the inside of the boards, bars, pipes, rails, or other materials.

(c) The short form measurements used in this by-law shall have the following meaning:

(i) “cm” means centimeter;

(ii) “ft.” means feet;

(iii) “ga.” means gauge;

(iv) “in.” means inch;

(v) “lb” means pound;

(vi) “m” means meter;

(vii) “mm” means millimeter.

6.0 GENERAL SPECIFICATIONS

6.1 No swimming pool enclosure shall:

(a) be less than 1.5 m (5 ft.) in height;

(b) have any horizontal or diagonal support or brace unless the support or brace is on the inside of the enclosure and the enclosure is of closed construction, or the horizontal rails are separated by a minimum clear vertical distance of 1.22 m (48 in.);

(c) be constructed of horizontal boards, bars, pipes, rails or other materials unless the enclosure is of solid construction, such that it does not facilitate climbing from the outside;

(d) have a separation between vertical boards, bars, pipes, tubes, rails or other materials exceeding 3.8 cm (1.5 in.), or in the case of a chain link fence, have a chain link mesh exceeding 3.8 cm (1.5 in.);

(e) have a ground clearance space or gap greater than 10.0 cm (4 in.) at any point under the enclosure between the bottom rail, board, pipe, or other support and the effective ground level;

(f) be located closer than 1.22 m (4 ft.) to the water’s edge.

6.2 Swimming Pool Enclosures of Wooden Construction

(a) in addition to the requirements of this Part, every swimming pool enclosure of wooden construction shall:

(i) be supported by vertical wooden posts with a minimum size of 10.0 cm X 10.0 cm (4 in. X 4 in.) nominal, spaced not more than 2.44 m (8 ft.) apart, securely anchored into the ground;

(ii) be constructed with vertical boards with a minimum nominal dimension of .25 cm X 10.0 cm (1 in. X 4 in.);

(iii) be constructed with a horizontal top rail and a horizontal bottom rail with a minimum nominal dimension of .50 cm X 10.0 cm (2 in. X 4 in.).

6.3 Swimming Pool Enclosures of Chain Link Construction

(a) In addition to the requirements of this Part, every swimming pool enclosure of chain link construction shall:

(i) have a mesh consisting of 12 gauge galvanized steel wires, or of 14 gauge steel wires covered with vinyl or other types of plastic approved by the Chief Building Official, yielding a total thickness equivalent to a 12 gauge galvanized steel wire;

(ii) be supported by galvanized or vinyl coated steel vertical posts with a minimum diameter measurement of 3.4 cm (1.5 in.) spaced not more than 3.043 m (10 ft.) apart, installed as per manufacturers instructions;

(iii) have top and bottom horizontal rails or pipes firmly fastened to the vertical posts made of galvanized steel pipe with a minimum diameter of 3.2 cm (1.25 in.). A galvanized steel 9-gauge bottom wire may be substituted for the bottom rail or pipe.

6.4 Swimming Pool Enclosures of Other Materials:

(a) Where a swimming pool enclosure is made of materials or construction other than prescribed by this by-law, it may be approved by the Chief Building Official by the issuance of a permit for the enclosure if s/he determines that the enclosure would yield an equivalent or greater degree of safety as provided in the requirements under this by-law.

6.5 No part of a swimming pool enclosure shall contain barbed wire, electrical wiring, sharp projections, or any other objects or materials that would create a danger to the safety of any persons or animals.

6.6 Additional Requirements for Gates, Doors, and Entrances

(a) Where a gate forms part of a swimming pool enclosure, it shall be:

(i) supported on substantial metal hardware hinges;

(ii) self-closing by means of a self-closing device;

(iii) self-latching by means of a self-latching device at the top of and on the inside of the gate;

(iv) a minimum of 1.5 m. (5 ft.) in height;

(v) kept locked at all times, when there is not a responsible person present supervising the pool.

(b) No owner or occupant shall construct or maintain a double swimming pool fence gate access without one of the two gates having a self-closing device and a self-latching device. The gate of this double gate access without a self-closing device and self-latching device must have a device permanently affixed to the ground or other non-movable object. That prevents access through this gate without lifting or removing this device and then releasing the latch.

(c) Where a door forms part of the swimming pool enclosure but does not lead directly from a private dwelling unit, it shall be:

(i) of such height and of such construction as will provide a degree of safety and rigidity equivalent to or greater than that of a required fence;

(ii) supported on substantial metal hardware hinges;

(iii) equipped with a bolt, chain, latch, or a similar device, located at a minimum height of 1.52 m (5 ft.) from the bottom of the door;

(iv) be kept locked at any time when the swimming pool contains 61 cm (24 in.) or more water in depth.

(d) Nothing in this By-law shall prevent the use of an existing or proposed wall or walls of a structure located on the same property as one or more sides of the fence. provided however that such wall or walls shall be of equal or greater strength.

6.7 Construction Fence

(a) A construction fence shall:

(i) be 1.22 m (4 ft.) in height;

(ii) consist of vertical wood, lath with openings not greater than 3.8 cm (1.5 in.), or of plastic mesh with a mesh not greater than 3.8 cm (1.5 in.);

(iii) have steel T-bar posts at intervals of not more than 2.4 m (8 ft.);

(iv) have a 9-gauge galvanized steel or vinyl coated wire at both the top and the bottom;

(v) be permitted only during the construction of a swimming pool and shall be replaced with a permanent swimming pool enclosure that complies with the requirements of this by-law prior to filling the swimming pool with water.

7.0 LEGAL NON-COMPLIANCE

7.1 Subject to any other provisions of this by-law, fences legally established prior to and existing as of the date of passing of this by-law which do not comply with the provisions of this by-law shall be deemed to be legal non-complying and nothing in this by-law shall prevent the strengthening or restoration to a safe condition of such a fence provided it is not located within any sight triangle or that the existing pool is not moved, altered or enlarged.

7.2 Where for any reason an existing non-complying fence is replaced or removed such non-complying use shall be terminated and any such new fence constructed shall conform to the provisions of this by-law.

7.3 Notwithstanding the provisions of Section 7.1, a fence may be deemed to be a safety hazard by the Chief Building Official.

7.4 A fence that is deemed to be a safety hazard shall be forthwith removed by the owner of the property at the owner's expense.

8.0 NOTICE TO COMPLY

8.1 A Property Standards Officer who finds a contravention of this by-law shall give written notice to the owner or occupant of the property requiring compliance with this by-law within a specified time as determined by the Property Standards Officer.

8.2 A Property Standards Officer may order the owner or occupant of the property to drain the swimming pool until such time as an inspection by a Property Standards Officer has verified that the by-law contravention outlined in the written notice has been corrected.

8.3 The notice may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case the notice shall be deemed to have been given on the third day after it is mailed.

8.4 If there is evidence that the person in possession of the property is not the registered property owner, the notice shall be served on both the registered property owner and the person in possession of the property.

8.5 The Municipality may also effect service on the owner or occupant by a placard stating the terms of the notice and placed in a conspicuous place upon land on or near the property.

9.0 FAILURE TO COMPLY

9.1 If an owner or occupant fails to comply with a notice under Section 8.0, the Municipality may enter upon the owner's property or occupant's property at any reasonable time for the purpose of:

(a) removing, replacing, and/or repairing parts of or the entire swimming pool enclosure;

(b) draining the swimming pool of water.

9.2 Costs incurred by the Municipality in removing, replacing and/or repairing parts of or the entire swimming pool enclosure or draining the swimming pool of water will be recovered through means as provided for in Section 446 of the Municipal Act as amended.

10.0 OFFENCES

10.1 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 in the Provincial Offences Act.

11.0 NOTICE OF REMOVAL

11.1 Within 72 hours after removing parts of or the entire swimming pool enclosure, the Property Standards Officer or designate shall notify in writing the owner or occupant of the property on which the swimming pool enclosure was situated of the removal. Notification will be posted on

the property, delivered in person, or by registered mail, or delivery to the last known address.

11.2 The notice of the removal of parts of or the entire swimming pool enclosure shall:

(a) describe any materials or structures and the location from which they were removed;

(b) identify the location to which they were removed.

12.0 REDEMPTION OF PARTS OF OR THE ENTIRE SWIMMING POOL ENCLOSURE

12.1 The owner of the swimming pool enclosure may redeem it by providing proof of ownership within fourteen (14) days to the location to which it has been removed.

12.2 Should the parts of or the entire enclosure not be redeemed within fourteen (14) days, it shall be deemed to have been abandoned and ownership shall revert to the Municipality.

13.0 VALIDITY AND SEVERABILITY

13.1 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law, and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

13.2 Where a provision of this by-law conflicts with the provision of another by-law in force within the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

14.0 EFFECTIVE DATE

14.1 **THIS** by-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME this 26th day of May, 2008.

Original Signed By:

_____

MAYOR – Randy R. Hope

Original Signed By:

_____

CLERK – Elinor Mifflin

Set Fine Schedule

MUNICIPALITY OF CHATHAM-KENT
PART 1 - Provincial Offences Act

By-law 125-2008 Swimming Pool Enclosure By-law

ITEM	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Cause/ permit/construct/replace pool, without permit	Section 4.3(a)	$200.00
2	Improper pool enclosure	Section 4.3(b)	$200.00
3	Pool enclosure in visibility triangle	Section 4.3(c)	$200.00
4	Water in pool, with improper enclosure	Section 4.3(d)	$200.00
5	Allow water to remain in pool, with improper enclosure	Section 4.3(d)	$200.00
6	Use pool, with improper enclosure	Section 4.3(e)	$200.00
7	Allow pool enclosure to deteriorate	Section 4.3(f)	$200.00

NOTE: the general penalty provision for the offences listed above is Section 61 of the Provincial Offences Act, R.S.O. 1990, c.P. 33.

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