

**THE CORPORATION OF THE TOWN OF PETAWAWA
BY-LAW NO. 378/06**

**BEING A BY-LAW TO PRESCRIBE THE HEIGHT AND DESCRIPTION OF
LAWFUL FENCES AND TO REQUIRE OWNERS OF PRIVATELY-OWNED
OUTDOOR SWIMMING POOLS TO ERECT ENCLOSURES AROUND SUCH
SWIMMING POOLS, IN THE TOWN OF PETAWAWA.**

WHEREAS pursuant Section 11(1), Para 7 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, a by-law may be passed respecting matters relating to fences;

AND WHEREAS Section 130 of the Municipal Act, 2001, S.O. 2001, c.25 as amended authorizes the Councils of local municipalities to regulate matters related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS Section 391(1) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended provides that the Council may by by-law impose fees for services and activities provided or done by or on behalf of The Corporation of the Town of Petawawa;

NOW THEREFORE, THE Municipal Council of the Corporation of the Town of Petawawa enacts the following:

1. DEFINITIONS

In this by-law,

- a) “Chief Building Official” means the person appointed by Council to such position pursuant to the *Building Code Act* or his designate (Building Inspector);
- b) “corner lot” means a lot situated at the intersection of two or more 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 at the street extremities of the side lot lines) contain an angle of not more than one hundred and thirty-five degrees. In the case of a curved corner, the corner of the lot shall be that point on the street line nearest to the point of intersection of the said tangents;
- c) “Council” means the municipal Council of the Corporation of the Town of Petawawa;

- d) “fence” means 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;
- e) “gate” shall mean any part of a swimming pool enclosure or fence which opens on hinges and includes a door located in the wall of an attached or detached garage or carport which forms part of the swimming pool enclosure or fence;
- f) “grade” means the elevation of the finished surfaces immediately surrounding the outside of the enclosure;
- g) “highway” means a common and public highway and includes any bridge, trestle or viaduct or other structure forming part of the highway;
- h) “lot” means all contiguous land under one ownership;
- i) “lot line” means any boundary of a lot or a vertical projection thereof;
- j) “lot line front” means ,
 - i) in the case of an interior lot, the lot line dividing the lot from the street,
 - ii) in the case of a corner lot, the shorter lot line abutting a street shall be deemed the front lot line,
 - iii) in the case of a through lot line, the lot line used for the principal entrance shall be deemed the front lot line;
- k) “lot line, rear” means, in the case of a lot having four or more lot lines, the lot line furthest from and opposite to the front lot line. In the case of a lot with less than four lot lines, there shall be deemed to be no rear lot lines;
- l) “lot line, side” means a lot line other than a front or rear lot line;
- m) “non-residential property” means land used for other than residential purposes;
- n) “permit” means permission or authorization in writing from the Chief Building Official to erect enclosures around pools as regulated by this by-law;

- o) “person” means an individual, an association, a chartered organization, a firm, a partnership or a corporation;
- p) “residential property” means land used for residential purposes and includes vacant land abutting residential property;
- q) “salvage yard” means a lot and/or premises for the storage and/or handling and/or sale of scrap or used materials;
- r) “swimming pool: means a privately owned outdoor structure, basin, chamber or tank containing or capable of containing water, and is designed to be used for swimming or wading and
 - i) has a depth equal to or more than 45 centimetres (18 inches) at any point;
 - ii) is not a pond or reservoir to be utilized for farming purposes; and
 - iii) excludes outdoor hot tubs, whirlpools or spas provided that a lockable cover is fixed securely to the unit;
 - iv) excludes storm water management ponds;
- s) “swimming pool enclosure” means any combination of fence, wall or other structure, including gates, surrounding a pool to restrict access thereto;
- t) “Town” means The Corporation of the Town of Petawawa;
- u) “yard” means an open space located between the nearest point of a building and a lot line;
- v) “yard, front” means a yard extending across the full width of a lot between the front lot line and the nearest part of any building, structure or excavation on the lot;
- w) “yard, rear” means a yard extending across the full width of a lot between the rear lot line and the nearest part of any building, structure or excavation on the lot;
- x) “yard, side” means a yard extending from the front yard to the rear yard of a lot and from the side lot line of such lot to the nearest part of any building, structure or excavation on the lot;
- y) “yard, exterior side” means a yard adjacent to a street between the nearest part of any building, structure or excavation on the lot and a street, a 1-

foot reserve or a road allowance, extending from the front yard to the rear lot line;

2. FENCING PRIVATELY OWNED OUTDOOR SWIMMING POOLS

PERMITS

- a) No person shall construct or cause to be constructed a swimming pool without first obtaining a swimming pool enclosure permit from the Chief Building Official.
- b) An application for a permit to erect a new swimming pool enclosure or for the replacement of an existing swimming pool enclosure shall be made by the owner or his or her agent, in writing to the Chief Building Official.
- c) All such applications shall be accompanied by the following:
 - i) plans showing the location of the proposed swimming pool including all enclosures, together with details of each entrance and showing the location of all proposed pool equipment such as filters, slides and heaters;
 - ii) the applicable fee as prescribed in Schedule "A" of this by-law.
- d) The Chief Building Official shall issue a permit for a swimming pool enclosure where the plans submitted appear to comply with all applicable regulations of the Ontario Building Code and the requirements of the by-law have been met.

SWIMMING POOL ENCLOSURE

- e) Every swimming pool shall be enclosed by a swimming pool enclosure, which shall:
 - i) extend from the ground to a height of not less than 1.524 metres (5 feet) and not more than 2 metres (6.5 feet) and is to be located no closer than 1.2 metres (4 Feet) from the edge of the pool,

- ii) be of a boarded, chain link or other approved design, to reasonably deter children from climbing it to gain access to the fenced-in area;
 - iii) any opening through or under any part of the enclosure shall be of a size so as to prevent the passage of a spherical object having a diameter of 10 cm (4 inches);
 - iv) all structural horizontal members are to be located inside the enclosure and be no closer than 1.2 metres (4 feet) apart, to prevent easy climbing,
 - v) gates in the enclosure shall be equipped with self-closing and a self-latching device located at the top and inside the gate and be lockable;
 - vi) a wall or walls of a building or buildings may form part of such enclosure provided that all doors affording access from a building directly to an enclosed swimming pool area, other than doors located in a dwelling unit, are equipped with a self-closing device and a self-latching device located not less than 1.2 metres (4 feet) above the bottom of the door,
 - vii) where the walls of an above ground pool form part of the enclosure, the combination of pool walls and enclosure must be a minimum of 1.5 metres (5 feet) in height,
 - viii) where a deck forms part of the enclosure, it shall meet all regulations in Section 2 of this by-law.
- f) No person shall place more than 45 centimetres (18 inches) of water in a pool in the Town of Petawawa unless the prescribed enclosure has been erected in accordance with the provisions of this by-law and such enclosure has been inspected and approved.

NOTICE OF NON-COMPLIANCE

- g) If, in the opinion of the Chief Building Official, an enclosure does not comply with the provisions of this by-law, the Chief Building Official shall notify in writing, the owner, agent, or person responsible for the said enclosure, of the requirements to bring the enclosure into compliance with the provisions of this by-law.
- h) Where a notice has been sent by the Chief Building Official pursuant to Section 2 g), and the requirement of the notice have not been complied with, the Council may cause the work to be done and the cost of the work shall be at the expense of the owner.

- i) When the Council causes the work to be done pursuant to Section 2h), the Town may recover the expense incurred in like manner as municipal taxes.

3. FENCES ON RESIDENTIAL PROPERTY

- a) On a residential property no person shall erect a fence or cause a fence to be erected that is higher than 2 metres (6.5 feet) in height in any yard.
- b) Notwithstanding Section 3a), a fence is not permitted within a yard front, with the exception of fences erected along side lot lines. In addition, no person shall erect or cause to be erected, a fence along a side lot line that is higher than 1 metre within 4.5 metres (14 feet, 9 inches) of the nearest front lot line, on any land used for residential purposes.
- c) Notwithstanding Section 3b), an exception is made on corner lots, whereby a fence may also be erected along a side lot line, adjacent to the exterior side yard, to a maximum height of 2 metres (6.5 feet), providing all other requirements of this by-law are complied with.
- d) Section 3a) shall not apply where the fence is:
 - i) erected and used to delineate an area required for and lawfully used as a tennis court, provided the fence is of chain link construction; or
 - ii) a noise control barrier erected by or as a requirement of a government agency acting pursuant to statutory authority; or
 - iii) located on land abutting land used for industrial or commercial purposes, railway right of way or utility installations.

VISIBILITY TRIANGLES

- e) At the intersection of any two streets, no building, or structure shall be erected, no landscaping materials shall be allowed to grow, no land shall be graded and no vehicle shall be parked above the height of 0.75 metres above the centreline grade of such streets, so as to materially impede the vision of the operator of a vehicle on the street, within the triangular area bounded by the lot lines to a distance of 6.0 metres from the points of intersection of the corner lot lines, or of the projection of the corner lot lines, or within such area required according to the standards of the Ministry of Transportation.

EXEMPTIONS

- f) Despite Section 3, where it is considered necessary for the health or safety of the public, the Chief Building Official may permit the construction of a fence higher than the height specified in the by-law on residential property provided that the height of the fence does not exceed 3 metres (9.8 feet) and the height of the fence is necessary to public safety.

4. FENCES ON NON-RESIDENTIAL PROPERTY

- a) No person shall erect a fence or cause a fence to be erected that is higher than 3 metres (9.8 feet) on a non-residential property.
- b) Every owner or operator of a salvage yard shall erect or cause to be erected a fence of solid materials and uniform construction around the salvage yard.
- c) The minimum height of a fence pursuant to subsection b) shall be 2.4 metres (8 feet).
- d) Notwithstanding Section 4c), the topography and grade of the subject property may require that a higher fence be constructed. This will be determined at the discretion of the Chief Building Official.

5. GENERAL PROVISIONS FOR ALL FENCES AND POOL ENCLOSURES

- a) No person shall erect a fence or pool enclosure or cause a fence or pool enclosure to be erected unless the fence or pool enclosure is constructed and finished in such a manner so as to present the finished side, as determined by the Chief Building Official, toward the public street and/or the neighbouring properties.
- b) No person shall erect a fence or pool enclosure or cause a fence or pool enclosure to be erected on Town property, including any public highway.
- c) No person shall erect or cause a fence or pool enclosure to be erected:
 - i) which is wholly or partly constructed of barbed wire, chicken wire or barbed or sharp material,

- ii) which contains a device for projecting an electric current, or
 - iii) in a manner that renders a swimming pool enclosure non-conforming.
- d) Despite paragraph c) i) where required for the safety or protection of non-residential property, the portion of any fence above 2.5 metres (8.2 feet) may be wholly or partially constructed of barbed wire.

6. ADMINISTRATION AND ENFORCEMENT

- a) The Chief Building Official or said designate shall be responsible for the administration and enforcement of this by-law.
- b) Any person who contravenes any provision of this by-law is, upon conviction, is guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

SEVERABILITY.

- c) In the event any part or provision of this by-law is held invalid, the remainder of the by-law shall continue in force.
- d) Where there is a conflict between this by-law and any other by-law of the Town, the provisions of this by-law shall prevail.

REPEALED

- e) Township of Petawawa By-law 682/77 and all of its amendments and Village of Petawawa By-law 80-81 and all of its amendments are hereby repealed.

EFFECTIVE DATE

- f) This by-law comes into force on the day it is passed by Council.

READ A FIRST AND SECOND TIME THIS 2nd DAY OF October 2006



Mayor



Clerk

READ A THIRD TIME AND PASSED THIS 2nd DAY OF October 2006



Mayor



Clerk

15
2006

SCHEDULE 'A'

PERMIT FEES

1. The permit fee for a new swimming pool enclosure is \$35.00.