

By-Law No. 39.2018

CORPORATION OF THE TOWN OF LAKESHORE

April 10th, 2018

WHEREAS the Municipal Act, 2001 S.O. 2001, c.25, as amended, authorizes municipalities to pass by-laws regulating fences as well as by-laws regarding the health, safety and well-being of persons;

AND WHEREAS it is important to the health, safety and well-being of persons that owners of privately-owned outdoor swimming pools be required to erect and maintain fences and gates around such swimming pools;

AND WHEREAS it is deemed expedient that persons desiring to erect of fence be required to obtain a permit from the Town before doing so;

NOW THEREFORE, the Council of the Corporation of The Town of Lakeshore enacts as follows:

Part 1

Interpretation

In this by-law,

1.1 Building

shall mean a structure consisting of a foundation, enclosing walls and a roof, that is used or intended to be used for the purpose of supporting or sheltering persons or animals or storing property;

1.2 Chief Building Official

shall mean a person designated as such by Council;

1.3 Corner lot

shall mean a lot situated at the intersection of two or more public highways;

1.4 Council

shall mean the Council of the Corporation of the Town of Lakeshore;

1.5 Dwelling

shall mean a building or other structure used for human habitation;

1.6 Farm

livestock, crops, water areas, wood lots, buildings, fields or lane ways for agricultural purposes;

1.7 Fence

shall mean any continuous barrier made of chain, wood, stone, masonry, lattice work screen or other such material, or a hedge or other such thick growth of shrubs or trees, constructed, installed or grown along the perimeter of lands, whether the lands are occupied or not, so as to give the inference that the barrier is intended to delineate the boundaries of the said lands. Any berm or other such man-made structure upon which a fence is built shall be deemed to be a part of the fence:

1.8 Front yard

shall mean that part of any lot extending across the full width of the lot and lying between the street and the nearest wall of any dwelling or other main building located on the lot;

1.9 Gate

shall include a door or other device that may be opened to gain access to an area enclosed by a fence;

1.10 Height

shall mean the vertical distance between the average grade level of the property and the highest point of the fence without taking into account fence posts;

1.11 Lot

shall mean any parcel of land and shall not be limited to lots on a duly registered plan of sub-division;

1.12 Owner

shall include any person who has lawful possession of any lands or premises;

1.13 Permit

shall mean a permit issued by the Town certifying approval of plans for fences, and swimming pool fences:

1.14 Person

shall mean a person, firm or corporation, or any group association of persons, unless otherwise noted:

1.15 Rear

yard shall mean that part of any lot extending across the full width of the lot and lying between the rear boundary of the lot and the nearest wall of any dwelling or other main building located on the lot:

1.16 Side Yard

shall mean that part of any lot that is not part of the front yard or rear yard lying between the side lot line and any dwelling or other main building located on the lot:

1.17 Swimming Pool

shall mean any man made structure that may be used to contain water of a depth greater than thirty centimetres for the purpose of swimming, wading or bathing purposes but shall not include:

- a man-made pond;
- irrigation lagoon that is used for agricultural purposes;
- a temporary excavation below the water table; or
- a portable wading pool that is not capable of containing water of a depth greater than sixty (60) centimetres and that is normally emptied on a frequent basis:

1.18 Swimming Pool Fence

shall mean any fence that encloses in whole or in part, a swimming pool and includes any gate attached to the fence;

1.19 Temporary fence

shall mean a fence constructed, in whole or in part, using materials which have been designed to be moved from location to location; or has been applied sacrificially to another permanent structure for support; and includes but not limited to: construction fencing or hoarding, snow fence, crowd control barricades, traffic barricades or other such barriers;

1.20 Town

shall mean the Corporation of the Town of Lakeshore;

Part 2

General

2.1

No person shall erect or cause to be erected a fence or swimming pool fence without first obtaining a permit from the Chief Building Official and the charge for such permit shall be in accordance with the Tariff of Fees By-law as may be in effect from time to time.

2.2

No permit is valid until the permit fee has been paid in full to the Town.

2.3

The provisions of the Line Fences Act R.S.O 1990 as amended, shall not apply to lands within the boundaries of the Town as are now or hereafter legally constituted

2.4

No person shall construct or reconstruct or cause to be constructed or reconstructed any fence that is not in compliance with this by-law.

2.5

2.5.1 N

o person shall use or cause to be used razor wire, barbed wire or any other such material in the construction of any fence.

2.5.2 N

no person shall use, or cause to be used, electric current as a part of or in conjunction with any fence.

2.5.3 N

Notwithstanding section 5(1) above, barbed wire may be used in the construction of a farm fence or on the top of a fence in a commercial or industrial zone, that does not abut a residential zone, provided that the height of the said fence is 1.8 metres or more:

2.5.4 S

Subsection 6(2) above shall not apply to farm fences.

2.6

2.6.1

No person shall construct or cause to be constructed a fence, except a farm fence, that exceeds 1.8 metres in height if located in any side yard or rear yard or that exceeds 1.2 metres in height when located in any front yard.

2.6.2 N

Notwithstanding subsection 7(1), a fence that does not exceed 2.4 metres shall be permitted on any lot used solely for commercial, industrial or institutional purposes.

2.7

On lots abutting a natural waterway, including Lake St. Clair, no person shall permit or construct, or cause to be permitted or constructed:

2.7.1

a fence that exceeds 1.2 metres (4 feet) in height in any front yard:

2.7.2

a fence that exceeds 1.8 metres (6 feet) in height in any side yard;

2.7.3

a fence in any rear yard except in compliance with the following regulations:

n

ot exceeding 1.2 metres (4 feet) in height in all other areas

2.8

No person shall construct, alter or repair, or cause to be constructed, altered or repaired, any fence using a material other than: chain link, wrought iron, wood, vinyl, stone, block, or any other material as approved by the Chief Building Official

2.9

No person shall construct, or cause to be constructed, a fence exceeding 0.9 metres in height within 7.5 metres of the point of intersection of the public highways abutting a corner lot.

2.10

2.10.1

No person shall construct, or cause to be constructed, a fence with material that exceeds 30 centimetres in width, whether such material is applied vertically, horizontally, or otherwise.

2.10.2

Subsection 11(1) shall not apply to fences constructed of masonry or to a hedge or other such thick growth of shrubs or trees.

2.11

The provisions of this by-law shall not apply to fences constructed by or on behalf of the Town or any local boards thereof, any public utility or Board of Education for the safety or benefit of the public.

2.12

No person shall construct or maintain, or cause to be constructed or maintained any fence that creates an unsafe condition for any person, or is structurally unsound.

Swimming Pool Fences

2.13

Every owner of a lot, on which a swimming pool is located, shall construct and maintain, or cause to be constructed and maintained, a swimming pool fence that forms a complete enclosure around the swimming pool.

2.14

Every person who constructs, or causes to be constructed, a swimming pool fence shall construct the swimming pool fence so as to prevent access under, over or through the fence except by way of a gate.

2.15

The Chief Building Official shall not issue a permit for the erection of any swimming pool fence and, after the passing of this by-law, no person shall construct or cause to be constructed a swimming pool fence, unless such swimming pool fence complies with the following regulations:

2.15.1

The minimum permitted height of a swimming pool fence shall be 1.2 metres as measured from the grade level immediately adjacent to the swimming pool fence;

2.15.2

The maximum permitted height of a swimming pool fence shall be 1.8 metres;

2.15.3

Every swimming pool fence shall be constructed so that all horizontal or diagonal structural members of the fence are located on the pool side of the fence and

the swimming pool fence shall not have openings, holes or gaps large enough to facilitate climbing;

2.15.4

Where a swimming pool fence is to be constructed of chain link material, the openings in the chain link material shall not be greater than 3.8cm (1.5 inches);

2.15.5

A dwelling or building may be utilized as part of a swimming pool fence;

2.15.6

Every swimming pool fence opening shall be secured with a gate;

2.15.7

Every gate shall be of the same height as the swimming pool fence:

2.15.8

Every gate shall be equipped with a self-closing device and a self-latching device on the swimming pool side of the top of the gate to the intent that all gates or doors will remain securely closed when the Swimming pool is not in use:

2.15.9

Paragraph (h) shall not apply to the door of any dwelling or building which forms part of the enclosure;

2.15.10

Every gate must be equipped with a lock:

2.15.11

Every swimming pool fence shall be not less than 1.5 metres (5') from the swimming pool:

2.15.12

Nothing shall be placed at or near the exterior side of a fence located within the same property so that it might facilitate the climbing of the swimming pool fence; and

2.15.13

Sun-decks or walkways may be used as part of a swimming pool fence provided that they are constructed so as not to facilitate climbing and are a minimum of 1.2 metres above the immediately adjacent grade level and if equipped with a gate, such gate shall be constructed in accordance with these regulations.

2.16

Every owner of a lot containing a swimming pool shall ensure that the gate providing access through the swimming pool fence is locked whenever the swimming pool is not in use.

2.17

Where a swimming pool is located above ground and has sides of 1.2 metres in height or greater, a swimming pool fence is not required. The owner of such swimming pool shall restrict access to it by enclosing any appurtenances to the swimming pool, such as, but not limited to, filter arrangements or an entrance ladder that is not removed when the swimming pool is not in use.

2.18

A swimming pool fence shall be deemed to comply with section 15 if one side is open to a natural waterway or break wall provided that there is no gap between the swimming pool fence and the said waterway or break wall.

2.19

If a swimming pool contains any amount of water, and notwithstanding the swimming pool may be covered, no person shall permit or maintain, or cause to be permitted or maintained, a temporary fence forming all or part of a swimming pool fence.

Part 3

Penalty

3.1 E

every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, pay a fine as provided for in the Provincial Offences Act, exclusive of costs.

3.2

Should any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the said section shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.

Part 4

Miscellaneous

4.1

The provisions of this by-law shall only apply to fences and swimming pool fences constructed or reconstructed subsequent to the passing of this by-law.

4.2

This by-law shall be deemed to have come into force and take effect on the date of the final passing thereof.

Part 5

Repeals

5.1

The Town of Lakeshore By-law No. 58-2001 as amended, is hereby repealed.

THIS BY-LAW WAS READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10th DAY OF APRIL, 2018.

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