

THE CORPORATION OF THE TOWNSHIP OF WOOLWICH

BY-LAW NUMBER 52-2007

BEING A BY-LAW TO REQUIRE PRIVATELY OWNED POOLS TO HAVE FENCES

WHEREAS the *Municipal Act, S.O. 2001*, empowers Councils of Municipalities to pass by-laws with respect to fencing, deep waters and to promote the safety and well-being of the inhabitants of the Township of Woolwich;

AND WHEREAS the Council of the Corporation of the Township of Woolwich wishes to regulate the manner in which pools, hot tubs and other water features located on private property are constructed, used and enclosed;

NOW THEREFORE the Council of the Township of Woolwich enacts as follows;

Section 1: Short Title

This by-law, and any amendments, may be cited as "The Pool Fence By-law"

Section 2: Definitions

- 2.1 "Chief Building Official" shall mean the Chief Building Official as may be appointed by Council;
- 2.2 "Council" shall mean the Council of the Township of Woolwich;
- 2.3 "Fence" shall mean a structure of vertical, horizontal, or diagonal members or any combination thereof, erected as a barrier, enclosure or demarcation;
- 2.4 "Lock" shall mean a fastening device, which is operated with the use of a key or a sequence of numbers (combination), or a child proof locking mechanism.
- 2.5 "Officer" shall mean Municipal Law Enforcement Officer, Police Officer or other individual duly appointed by Council for the purpose of enforcing this by-law.
- 2.6 "Pool" shall mean a manufactured outdoor swimming pool or hot tub capable of having water with a depth of 93.98 centimetres (37 inches) at any point, used and maintained for the purposes of swimming, wading, diving or bathing, but shall not include:
 - a) an existing natural body of water (e.g., a river, stream, pond, lake);
 - b) a body of water created as part of an aggregate operation, which is or was regulated by the Ministry of Natural Resources;
 - c) a pond; and
 - d) storm water ponds.

Section 3: Interpretation

- 3.1 In this By-law reference to singular shall include the plural, and reference to masculine shall include the feminine. The converse shall also apply.

- 3.2 In this By-law the word “shall” is to be construed as being always mandatory and not directory.
- 3.3 This By-law shall apply to new and existing pools within the Township of Woolwich.

Section 4: Regulations

- 4.1 No person shall construct or use a pool for which a permit has not been issued by the Chief Building Official of the Township of Woolwich.
- 4.2 Every permit application for the construction or use of a pool shall include plans for all fences and gates to be constructed, together with the required fee as set out in the Township of Woolwich Fees and Charges by-law, and such other information as required by the Chief Building Official.
- 4.3 No person shall construct or use a pool without a fence enclosure.
- 4.4 No person shall construct or use a pool without a fence or gate as constructed in accordance with the following regulations:
- a) the fence shall be constructed as near as possible to grade, but no greater than 100 mm (4 inches) from the ground to the bottom of the fence;
 - b) the fence shall be a minimum height of 1.52 metres (5 feet) measured from the highest point of the adjacent grade within 1.5 metres of the fence location;
 - c) the gate shall be equipped with a self latching or self closing device, with a lock;
 - d) The fence and gate shall be composed of:
 - i. Chain link construction with an opening size of no greater than 50 mm. (2 inches); or
 - ii. vertical members where the spacing between such vertical members is no greater than 100 mm. (4 inches) and the horizontal rails are a minimum of 1.1 metres apart;
 - iii. Shadow fencing (vertical board members staggered and separated by the horizontal member) where the spacing between the vertical members does not exceed the width of the member being used and the horizontal rails are a minimum of 1.1 metres apart;
 - e) use of wood lattice is permitted for the top portion of any permitted fence types provided the main fence is a minimum of 1.2 metres in height, where the lattice is located above.
 - f) Hot tubs fitted with a tight fitted cover are exempt from the requirements to be fenced but shall include a lock.
- 4.5 A dwelling, building or accessory building, or part thereof, with a minimum height of 1.52 metres (5 feet) may be used to enclose a pool.
- 4.6 Every owner or person having care and control of a pool for which entry is controlled by a gate and hot tubs fitted with a cover, shall ensure the pool or hot tub is kept locked and secured except when in use.

- 4.7 Every owner or person having care and control of a pool or hot tub when open for use, shall ensure it is supervised by a responsible adult.
- 4.8 Every owner or person having care and control of a pool or hot tub shall ensure that all fences, gates, covers and locks are constructed in pursuant to the requirements of Section 4.4, prior to filling and use of the pool.
- 4.9 Every owner or person having care and control of a pool or hot tub shall ensure that all fences, gates, locks and covers are maintained in good working order, pursuant to Township of Woolwich Property Standards By-law #23-88.
- 4.10 Every owner shall ensure any pool or hot tub existing as at the date this By-law is passed, complies with this By-law on or before June 1, 2008.
- 4.12 No person shall contravene an Order as prescribed in Section 5 of this By-law.
- 4.13 No person fail to comply with an Order as prescribed in Section 5 of this By-law

Section 5: ORDERS AND REMEDIAL ACTIONS

- 5.1 If an Officer is satisfied that a contravention of a by-law has occurred, the Officer may make an Order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity pursuant to the Municipal Act, 2001, S.O. 2001, c. 25
- 5.2 If an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an Order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention pursuant to the Municipal Act, 2001, S.O. 2001, c.25
- 5.3 If an Officer has the authority under this by-law to direct or require a person to do a matter or thing, the Officer may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense pursuant to the Municipal Act, 2001, S. O., c.25
- 5.4 An Order under Section 5.1 may require work to be done even though the facts which constitute the contravention of the by-law were present before the by-law making them a contravention came into force.

Section 6: OFFENCE

- 6.1 Any person who contravenes this By-law is guilty of an offence and upon conviction is liable to a fine pursuant to Section 61 of the Provincial Offences Act with a maximum penalty not exceeding \$5,000.00 and/ or a set fine as outlined in Schedule "A" of this By-law.

6.2 Continuation – repetition – prohibited – by order

If any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the Court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

6.3 Default – not remedied

In the event anything to be done in accordance with this By-law is not done, the Corporation of the Township of Woolwich may do such thing at the expense of the person required by this By-law to do it, and may recover the costs of so doing from such person by adding the cost together with an administrative fee of the greater of \$80.00 or 15% of such expense to the tax roll and collecting the same in like manner and with the same priority as municipal taxes.

Part 7– Enactment

7.1 This by-law shall come into force and take effect on the date that it is passed.

7.2 Schedule "A" of this By-law shall come into effect upon approval of the set fines by the Regional Senior Justice for the West Region.

PASSED this 26th day of June, 2007.

Wm. L. Strauss

MAYOR

Christine Broughton

CLERK

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION

COURT HOUSE
15TH FLOOR, UNIT "G"
80 DUNDAS STREET,
LONDON, ONTARIO
N6A 6B3

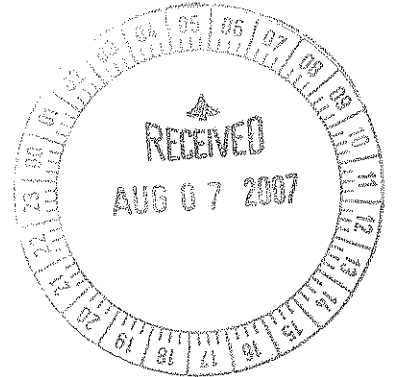


CABINET DU JUGE PRINCIPAL REGIONAL
COUR DE JUSTICE DE L'ONTARIO
REGION DE L'OUEST

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3248

July 27, 2007

Ms. Megan Standring
The Township of Woolwich
69 Arthur Street South
P.O. Box 158
Elmira, Ontario
N3B 2Z6



Dear Ms. Standring:

**Re: Set Fines - Provincial Offences Act - Part I
By-law Number 52-2007, of the Township of Woolwich**

Enclosed herewith is a copy of an Order, and a copy of a schedule of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedule of set fines to the Provincial Offences Court in Kitchener, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in black ink, appearing to read "Alexander M. Graham".

Alexander M. Graham
Regional Senior Justice
West Region

Enclosures

/PP

cc: Manager, Provincial Offences Court

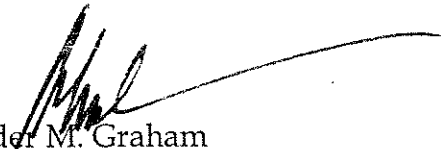
ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 52-2007, of the Township of Woolwich, attached hereto are the set fines for those offences. This Order is to take effect July 27, 2007.

Dated at London this 27th day of July, 2007.



Alexander M. Graham
Regional Senior Justice
West Region

SCHEDULE "A"			
TOWNSHIP OF WOOLWICH			
BY-LAW NUMBER 52-2007			
POOL FENCE BY-LAW			
PART 1 PROVINCIAL OFFENCES ACT			
ITEM	COLUMN 1	COLUMN 2	COLUMN 3
	SHORT FORM WORDING	Provision creating or defining offence	Set Fine (not including VSF or court costs)
1	Construct pool - no permit	4.1	\$105.00
2	Use pool - no permit	4.1	\$105.00
3	Construct pool - no fence enclosure	4.3	\$300.00
4.	Use pool - no fence enclosure	4.3	\$300.00
5	Construct pool with fence constructed contrary to regulations	4.4	\$105.00
6	Use pool with fence constructed contrary to regulations	4.4	\$105.00
7	Construct pool with gate constructed contrary to regulations	4.4	\$105.00
8	Use pool with gate constructed contrary to regulations	4.4	\$105.00
9	Fail to ensure pool is kept locked and secured	4.6	\$300.00
10	Fail to ensure hot tub is locked and secured	4.6	\$300.00
11	Fail to ensure supervision of a pool by a responsible adult	4.7	\$300.00
12	Fail to ensure supervision of a hot tub by a responsible adult	4.7	\$300.00

13	Fail to ensure pool is constructed pursuant to Section 4.4	4.8	\$105.00
14	Fail to ensure hot tub is constructed pursuant to Section 4.4	4.8	\$105.00
15	Fail to ensure fence is in good working order so as to prevent entry	4.9	\$300.00
16	Fail to ensure lock is in good working order so as to prevent entry	4.9	\$300.00
17	Fail to ensure cover of hot tub is in good working order so as to prevent entry	4.9	\$300.00
18	Fail to comply with by-law by June 1, 2008	4.10	\$105.00
19	Contravene Order	4.12	\$300.00
20	Fail to comply with Order	4.13	\$300.00

NOTE: The penalty provision for the offences indicated above is Section 61 of the Provincial Offences Act. S. O 1990, c. P.