

THE CORPORATION OF THE MUNICIPALITY OF OLIVER PAIPOONGE

By-law No. 0150-2000

Being a by-law respecting residential, cottage recreational, commercial, industrial and agricultural fences and swimming pool enclosures within the Municipality of Oliver Paipoonge.

WHEREAS subsections 25, 26, 28 and 30 of Section 210 of the Municipal Act, R.S.O. 1990 and amendments thereto provides for prescribing the height and description of lawful fences; for prescribing the height and description of and the manner of maintaining, keep up and laying down, fences along highways or parts thereof; and for requiring owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools; for prescribing the height and description of land the manner of erecting and maintaining such fences and gates; for prohibiting persons from placing water on privately owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected.

NOW THEREFORE THE CORPORATION OF THE MUNICIPALITY OF OLIVER PAIPOONGE HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

- 1.1 "COUNCIL" shall mean the Council of the Corporation of the Municipality of Oliver Paipoonge.
- 1.2 "ENCLOSURE" shall mean a fence, wall or structure including doors or gates surrounding a privately owned outdoor swimming pool.
- 1.3 "FENCE" shall mean a linear barrier erected, growing or maintained on land in the Municipality of Oliver Paipoonge and includes a hedge, free standing wall, structure or partition of any material or combination of materials enclosing, partly enclosing or dividing land, or being used for decorative purposes.
- 1.4. "HEIGHT" shall mean the perpendicular distance from the level of land on which a fence or enclosure is erected, growing or maintained to the top of such fence or enclosure but where the land levels are not the same on both sides of the fence or enclosure, the "LEVEL OF LAND" shall be deemed to be the lower of such levels.
- 1.5 "HIGHWAY" shall mean and include any common or public highway, road, concession, street, avenue, lane, parkway, driveway, square or place, bridge, viaduct, opened or unopened road allowance, or trestle designed and intended for or used by the general public for the passage of vehicles.
- 1.6 "LIVESTOCK" shall mean animals kept or raised for use or profit.

- 1.7 "OBNOXIOUS" shall mean and include offensive and objectionable.
- 1.8 "PERSON" shall mean an individual or individuals, a partnership, a corporation, a municipality or any group or body.
- 1.9 "POULTRY" shall mean domesticated birds kept for eggs or meat.
- 1.10 "SHORELINE" shall mean the physical high water mark made by a water body or by a water course, and shall include beached, exposed rock, other features that are a part of a beach environment. Where the water's edge displays no such highwater marks, the water's edge shall be the shoreline.
- 1.11 "STATE" shall mean and include any condition, style or position.
- 1.12 "SWIMMING POOL" shall mean and include any body of water used for swimming or wading contained in part or in whole by artificial means, constructed above or below the grade level of the surrounding land and having a depth of more than 610 mm at any given point.

2. RESIDENTIAL AND COTTAGE RECREATIONAL FENCES

- 2.1 The provisions of this part shall apply to all lands within the Municipality of Oliver Paipooze zoned for residential and cottage recreational uses, all lots used for residential and cottage recreational purposes within any zone classification and any lot within a registered plan of subdivision zoned, used or intended to be used for residential and cottage recreational purposes.
- 2.2 Every fence erected shall be constructed in a proper and workman like manner of good sound material or materials and shall be maintained in a good state of repair and in a firm, stable and safe condition.
- 2.3 No person either being the occupant or owner of land shall erect, grow or maintain or cause or permit to be erected, grown or maintained any fence composed wholly or partly of:
- 2.3.1 barbed wire, barbed material or any other material of a nature which could be injurious or inherently dangerous to the public, or;
- 2.3.2 any device designed for or capable of projecting electric current through a fence.
- 2.4 No person under this part either being the occupant or owner of land shall erect, grow, maintain or cause to be erected, grown or maintained on the land of a fence more than 2 metres in height.
- 2.5 No person shall construct a fence more than 1.2 metres in height within 15 metres of the shoreline of any lake.

3. SWIMMING POOL ENCLOSURES

- 3.1 The Owner of each privately owned outdoor swimming pool as defined in Subsection 1.12 above shall erect and maintain a fence around each such swimming pool.
- 3.2 Any fence required to be provided and maintained under Subsection 3.1 of this section may include:
- 3.2.1 one or more gates which are erected and maintained in accordance with Subsection 3.4 of this by-law;
- 3.2.2 any part of a wall of a building if the part used as part of the fence exceeds 1.5 metres in height.
- 3.3 Every fence required to be erected and maintained in accordance with Subsection 3.1 shall be:
- 3.3.1 not less than 1.2 metres in height above grade;
- 3.3.2 constructed so that any fence post or other structural members of the fence to which any wire, boards or other materials are attached, is on the pool side of such wire, boards or other material, provided that Subsection 3.31 shall not apply to any fence used in common by abutting owners to separate pools situate upon their respective properties;
- 3.3.3 constructed so that it has no openings, rails or horizontal or diagonal attachments on the outside which would facilitate climbing;
- 3.3.4 constructed so that only means of ingress to or egress from the area enclosed by the fence shall be through doors or gates constructed in accordance with Subsection 3.4 of this by-law;
- 3.3.5 where constructed of chain link:
- i) not less than 12 gauge with diamond mesh not larger than 50 mm in the case of fences having a height of not less than 1.8 metres and not larger than 38 mm in the case of fences having a heights of less than 1.8 metres;
 - ii) supported by metal posts set in concrete and spaced not more than 3 metres apart;
 - iii) have (throughout its length), a taut wire interwoven through the bottom links to prevent the bottom portion of the fence from being raised.
- 3.3.6 where constructed of wood the boards be placed vertically not more than 38 mm;
- 3.3.7 located not less than 1.2 metres from the edge of the pool;
- 3.3.8 at grade level at its bottom;

3.4 Every gate included in a fence required by Subsection 3.1 shall be:

3.4.1 constructed in accordance with the provisions of Subsection 3.3 hereof; and

3.4.2 equipped with self-closing and self-latching devices so that when not in use the gate is at all times closed and latched. Such latching device shall be located at the top of the gate on the poolside.

3.5 Notwithstanding the provisions of Subsections 3.1 through 3.4 hereof, in the case of a pool constructed entirely above grade and so constructed that it has no openings, rails or horizontal or diagonal attachments on the outside which would facilitate climbing, only the steps to such pool are required to be fenced and equipped with a gate as hereinbefore provided. The fencing around such steps and the gate shall in all respects comply with the provisions of the by-law.

3.6 Prior to the construction of fences and gates as required hereby, the owner of the swimming pool shall produce and deposit with the Building Inspector or his delegate, plans showing all fences and gates proposed to be constructed, such plans to show the location of such fences and gates and their manner of construction in sufficient detail to permit the Building Inspector or his delegate, to ascertain whether or not the proposed fences and gates will comply with the provisions of this by-law.

3.7 In the event that the proposed fences and gates comply with the provisions of this by-law, the Building Inspector or his delegate, shall, subject to Subsection 3.10 hereof, issue a permit in the form set forth in Schedule "A" hereof certifying that he has approved such plans.

3.8 No privately owned outdoor swimming pool may be excavated for or erected without a permit as in heretofore provided.

3.9 No person shall place water in a privately owned outdoor swimming pool or allow water to remain therein unless the fences and gates prescribed hereby have been erected.

3.10 The Building Inspector, or his delegate, is authorized to refuse to issue a permit for any such fence or gate which, if erected, would be contrary to the provisions of any by-law of this Municipality.

3.11 This by-law shall apply to every privately owned swimming pool as defined in Subsection 1.10 of this by-law, constructed after the passing of this by-law.

4. AGRICULTURAL COMMERCIAL AND INDUSTRIAL FENCES

4.1 The provisions of this part shall apply to all lands within the Municipality of Oliver Paipoonge zoned or used for agricultural, commercial or industrial uses.

- 4.2 Every fence erected shall be constructed in a proper and workman like manner of good sound material or materials and shall be maintained in a good state of repair and in a firm and safe conditions.
- 4.3 No person under this part either being the occupier or owner of land shall erect, grow, maintain or cause or permit to be erected, grown or maintained on the land of a fence more than 3 metres in height.
- 4.4 A fence under this part may be constructed of barbed wire on lands zoned or used for agricultural purposes but a fence under this part on lands zoned or used for industrial or commercial may be comprised in part with barbed wire but such a fence shall only consist to a maximum of 3 strands of barbed wire which shall be used on the top at a minimum height of barbed wire from ground level of 2.5 metres.
- 4.5 A fence under this part may be electrified on land zoned or used for agricultural purposes but any electrified fence abutting a highway or a residence shall be clearly marked as such.
- 4.6 All occupiers or owners of land for agricultural purposes shall erect and maintain a fence upon land which they keep or maintain any livestock or poultry including horse(s), cattle, sheep, swine, geese or poultry and every fence shall be of sufficient height and strength to prevent the escape from that land of any such animal or poultry kept thereon unless such livestock or poultry are otherwise effectively restrained from leaving said land.
- 4.7 Where any livestock or poultry including horse(s), cattle, sheep, swine, geese or poultry escape from any land, such escape shall be deemed prima facie evidence of the insufficiency of such fence or of such other means of restraint employed, and the burden of proving the sufficiency of such fences or means of restraint shall be upon the occupant or owner of such land; and further the occupant or owner of such land shall prima facie be deemed the owner of such livestock or poultry.

5. GENERAL ADMINISTRATION

- 5.1 No person shall erect or maintain a fence or enclosure either permanently or temporarily on any highway or property owned or administered by the Corporation of the Municipality of Oliver Paipoonge without in the first instance obtaining in writing the prior approval of Council thereto, except under provision provided for in subsection (4) of Section 314, The Municipal Act R.S.O., 1990 and amendments thereto.
- 5.2 No person shall erect or maintain any fence or enclosure which may obstruct the 180 degree view of any driver of a vehicle approaching a highway intersection of other vehicle(s), traffic or pedestrians converging upon that intersection.

5.3 None of the provisions of this by-law relating to the height of fences except the provisions of 5.2 shall apply to land owned, leased or administered by:

5.3.1 the Corporation of the Municipality of Oliver Paipoonge;

5.3.2 any local board as defined in the Municipal Act;

5.3.3 any telephone, telegraph or gas company;

5.3.4 any department of the federal or provincial government including the Hydro Electric Power Commission of Ontario;

5.3.5 any person who has an agreement or permission in writing from the Council;

5.3.6 any person who by way of any judgement, order, direction or decision made or given by any court or other duly constituted authority having jurisdiction;

5.3.7 any person who erects and maintains a fence for the purpose of surrounding a tennis court which shall be permitted to a maximum height of 3 metres;

5.3.8 any person approved by the Council of the Corporation of the Municipality of Oliver Paipoonge to conduct a salvage yard, scrap yard, pit or quarry.

5.4 No person shall post, place, exhibit, write, draw, or make or permit or cause to post, place, exhibit, write, draw or make on any fence or enclosure any drawings, pictures or writing of words which may be indecent or may corrupt or demoralize any person.

5.5 No person shall erect or maintain any fence or enclosure in an obnoxious state.

5.6 Every person either being the occupant or owner of land upon notification of a contravention of Subsections 5.4 or 5.5 shall immediately remove such contravention.

5.7 If any provisions of this by-law are for any reason held to be invalid, it is hereby declared to be the intention that all remaining provisions shall remain in full force and effect until repealed, notwithstanding that one or more provisions shall have been declared to be invalid.

6. PENALTIES

6.1 Every person convicted of a breach of the provisions of this by-law shall forfeit and pay at the discretion of the convicting provincial judge or justice of the peace, a sum not exceeding two thousand dollars (\$2,000.00) for each offense

exclusive of costs, recoverable under the Provincial Offenses Act, as amended or any successor thereof;

- 6.2 Upon conviction for a breach of any of the provisions of this by-law, the convicting provincial judge or justice of the peace besides imposing a penalty under this section may order the offender to carry out the requirements of this by-law within a time to be limited by the order.
7. Permits issued in accordance with Subsection 3.7 of this by-law shall be in the form as set out in Schedule "A" attached hereto and forming part of this by-law.
8. This by-law shall be deemed to have come into force and effect on the day it was passed.

Read a first and second time this 6th day of June, 2000.

Read a third time and finally passed this 6th day of June, 2000.

THE CORPORATION OF THE MUNICIPALITY
OF OLIVER PAIPOONGE

Mayor

Chief Administrative Officer/Clerk

THE CORPORATION OF THE MUNICIPALITY OF OLIVER PAIPOONGE

SCHEDULE "A" TO BY-LAW 150-2000

APPLICATION
OUTDOOR SWIMMING POOL ENCLOSURE

Permit No. _____

Owner's Name

Postal Address

Telephone Number

Property Description: (complete the applicable boxes)

Concession No.:
Lot(s) No.:
Registered Plan No.:
House # and Road Name:
Reference Plan No.:

POOL TYPE:

Above Ground _____mm Below Ground _____mm

Maximum Depth _____mm

Pool Size _____X_____ Fenced Area _____X_____

1.2 metre Minimum Deck

Length of Building Wall used as Fence at 1.5 metres minimum height _____m

No. of Gates _____

Fence Height 1.2 m 1.8 m

Fence Material Chain Link Wood Other

Date Plans Submitted _____

Submitted By _____
Signature of Owner/Applicant

Building Permit No. for Pool _____

Plumbing Permit No. for Pool _____

Issued By _____
Chief Building Official

Date Issued _____