

THE CORPORATION OF THE MUNICIPALITY OF CALLANDER

BY-LAW NUMBER 2007-1060

Being a By-Law to regulate the height and description of lawful fences and to require owners to fence outdoor swimming pools, hot tubs, whirlpools and spas and to obtain permits for the construction of swimming pools and fences around swimming pools.

WHEREAS Part II, Section 11(1), paragraph 7 of the Municipal Act, 2001, S.O. 2001,c.25 as amended authorizes a single tier municipality to pass by-laws respecting fencing.

AND WHEREAS section 11(1)7 of the Municipal Act, 2001, S.O 2001, c.25, as amended from time to time, authorizes a municipality to pass by-laws respecting matters relating to structures, including fences and signs;

1.0 **DEFINITIONS**

For the purpose of this By-Law the following terms shall have the corresponding meanings:

- 1.1 **“By-Law Enforcement Officer”** means the By-law Enforcement Officer appointed by by-law by the Council of the Corporation of Municipality of Callander;
- 1.2 **“Chief Building Official”** means the Chief Building Official appointed by by-law by the Council of the Corporation of the Municipality of Callander;
- 1.3 **“Council”** means Council of the Municipality of Callander;
- 1.4 **“Daylight Corner”** means on any corner lot a triangular space measured along the front yard and the exterior side yard property lines for a distance of 4.5 metres (15 feet) from their point of intersection.
- 1.5 **“Electrical Fence”** means a fence through which electricity passes;
- 1.6 **“Erect”** includes alter, construct, place and relocate;
- 1.7 **“Fence”** includes any one or combination of the following:
 - a railing,
 - wall,
 - structure except utility structures,
 - barrier of any construction or kind whatsoever,
 - rock(s)
 - line of posts,
 - wire,
 - masonry wall,
 - pillar(s),
 - gate,
 - boards,
 - pickets,
 - retaining wall or other similar substances,
 - earth berms or other manmade similar objects,
 - or combination of any of the materials as defined herein or other similar objects,used to enclose, separate, divide, provide shade or ornament in whole or part a yard or other land, or to establish a property boundary. Structures or earth berms designated by any by-law or municipality authority or required under any approval or agreement as noise barriers or noise barrier walls or any other structure governed under the Ontario *Building Code Act* are not deemed to be fences for the purposes of this By-law;
- 1.8 **“Gate”** means the part of a fence which provides access through the fence line.

- 1.9 “**Ground Level**” means the highest level of the ground at any point around the exterior of a swimming pool or around the exterior side of a fence;
- 1.10 “**Landscaped Water Feature/Fish Pond**” means any body of water located outdoors on privately owned land containing in whole or in part by artificial means and is used or intended to be used for the purposes of decoration;
- 1.11 “**Lawfully Erected**” shall mean a fence lawfully erected on private property in accordance with all applicable zoning by-laws and other by-laws enacted by Council from time to time, and the Ontario *Building Code Act*, and any permit required by Council for the lawful erection of a fence;
- 1.12 “**Lock**” means a keyed or combination lock and “locked” has a corresponding meaning;
- 1.13 “**Lot**” means any parcel of land which can be occupied or used or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of subdivision;
- 1.14 “**Municipality**” means the Corporation of the Municipality of Callander;
- 1.15 “**Owner**” means the owner, tenant, lessee or other person in care and control of the property on which a swimming pool is situated;
- 1.16 “**Person**” means an individual, firm, corporation, association or partnership;
- 1.17 “**Site Plan**” means a drawing illustrating the location and dimension of a swimming pool and the fence surrounding a swimming pool and the dimensions and location of ladders and other stair assemblies providing access to swimming pool decks or other appurtenances;
- 1.18 “**Swimming Pool**” means any privately-owned outdoor body of water, including a hot tub, which is designed to be used for swimming, diving or bathing in which the depth of water at any point can exceed 600mm (24 inches).
- 1.19 “**Securely Fastened**” means to have the lid of a hot tub held in place by clasps or like fasteners installed by the tub manufacturer and operating as per the manufacturers specifications.
- 1.20 “**Temporary Pool**” means a hot tub, whirlpool, or spa that is located outdoors on privately owned land and is used or intended to be used for wading or bathing and is located on the property for not more than 14 consecutive days and at which time the temporary pool is removed from the exterior of the property.

2.0 **PERMIT REQUIRED**

- 2.1 No *person* shall excavate before, install, construct or *erect* a *swimming pool* in the Municipality of Callander without a permit to do so issued by the *Municipality*.
- 2.2 No *swimming pool* permits shall be issued unless the *site plan* for such *swimming pool* and any change made thereto is approved by the *Chief Building Official*.

3.0 **PERMIT APPLICATION**

- 3.1 Every *person* applying for a *swimming pool* permit shall provide to the *Chief Building Official*:
 - 3.1.1 A *site plan* for the proposed construction of the *swimming pool* and *fence*;
 - 3.1.2 A completed application form as provided by the *Chief Building Official*; and
 - 3.1.3 Meet the requirements outlined in schedule A.
 - 3.1.4 Payment of applicable fee as outlined in schedule B.

4.0 WATER IN SWIMMING POOLS

- 4.1 No *person* shall place water in or allow water to remain in a *swimming pool* when the *swimming pool* is not surrounded by a *fence* which is in full compliance with all provisions of this By-Law.

5.0 FENCE HEIGHT

- 5.1 Every *owner* of a *swimming pool* shall ensure that a *fence* is *erected* and maintained surrounding such *swimming pool* and in every case the *fence* shall:

5.1.1 Where the *swimming pool* is located on the property of a single-detached or semi-detached dwelling, have a height of not less than 1500mm (4 feet) measured from *ground level* to the top of the *fence*; or

5.1.2 Where the *swimming pool* is located on property other than that of a single-detached or semi-detached dwelling, have a height of not less than 1800mm (5 feet) measured from *ground level* to the top of the *fence*.

- 5.2 Notwithstanding Section 5.1 of this By-Law, a *fence* surrounding a *swimming pool* is not required where the *swimming pool* is an above-ground *swimming pool* and where:

5.2.1 The vertical sides of the *swimming pool* and any deck or other assembly forming part of the *swimming pool* are the same minimum height as the *fence* height requirements pursuant to Sections 5.1.1 respectively;

5.2.2 Such vertical sides and assemblies are constructed and maintained in such a manner to prevent the climbing thereof; and

5.2.3 Any ladder or stair assembly providing access to the *swimming pool* or to any deck or other assembly forming part of the *swimming pool* is hinged and constructed in a manner so as to be latched in an upright position and *locked* thereby preventing entry to the *swimming pool*.

6.0 HOT TUBS

- 6.1 Notwithstanding Section 5 (1) of this By-Law, when any *swimming pool* is a hot tub, the *owner* of such *swimming pool* shall ensure that:

6.1.1 All fence provisions of this By-Law are complied with; or

6.1.2 Such hot tub is fitted with a lid or cover that withstands human weight without collapse and such lid or cover is *locked or securely fastened* in place at all times when the hot tub is not in use to protect the vulnerable.

7.0 FENCE REGULATIONS

- 7.1 Every *owner* of a *swimming pool* shall ensure that the *fence* surrounding the *swimming pool*:

7.1.1 Is located at least 500mm (1 foot, 8 inches) away from any other *fence* or other permanent object that may facilitate climbing of the *swimming pool fence*;

7.1.2 Is *erected* and maintained in a structurally sound condition so as to prevent access to the *swimming pool* when the *swimming pool* is not in use;

7.1.3 Has a maximum opening of 100mm (4 inches) between the bottom of the *fence* and the ground at any point directly below the *fence*;

7.1.4 Where such *fence* is chainlink, does not have diamond mesh greater than 50mm (2 inches) per link;

- 7.1.5 Does not have any barbed wire forming any part of the *fence* or forming any appurtenance thereto;
- 7.1.6 Is not capable of projecting electric current through any portion of the *fence* or any appurtenance thereto;
- 7.1.7 Is constructed and maintained in such a manner so as to prevent the climbing thereof.
 - 7.1.7.1 Where such *fence* is constructed with vertical members, the maximum opening between each vertical is 100mm (4 inches); and
 - 7.1.7.2 Spacing or horizontal members shall be a minimum of 1.1 metres (3 feet, 6 inches) when vertical space are spaced more than 25mm (1 inch) apart;
 - 7.1.7.3 Horizontal members shall be on the pool side of the *fence*;
- 7.1.8 A division *fence* which complies with the provisions of this section shall be deemed a sufficient *fence*,
- 7.1.9 Is not less than 1.22 metres (4 feet) in height measured from the adjacent grade,
- 7.1.10 So constructed that the only means of entry is by *gates* or doors,
- 7.1.11 The wall of any dwelling house, building or accessory building may be utilized to effectively enclose any pool.
- 7.1.12 No climbable objects, embankments, retaining walls, other fences, structures or anything that would facilitate climbing shall be located less than 1 metre (3.3 feet) from the *fence* or enclosure enclosing the pool
- 7.2 Notwithstanding Section 7.1.1 of this by-law, the *swimming pool fence* may be constructed within 500mm (1 foot, 8 inches) of another *fence* or other permanent object provided that the height of the *swimming pool fence* is authorized by the **Chief Building Official** and such authorization is entered on the *site plan* or on the permit issued by the **Municipality**.
- 7.4 For the purpose of pool installation, no *person* shall alter existing grading so as to negatively impact adjacent properties by causing erosion, ponding, increased ponding of storm water or allow any additional water flow to neighbouring properties
- 7.5 Where excavated material other than topsoil is to remain on site, a lot grading plan completed by an Ontario Land Surveyor, Professional Engineers or Architect shall be submitted for review with the permit application.
- 7.6 Neither the granting of a pool permit nor the approval of the plans and specifications, nor inspection made by the **Municipality** during construction shall in any way relieve the applicant from full responsibility of carrying out the work in accordance with the requirements of this by-law.
- 7.7 The property *owner* to whom a pool permit has been issued shall notify the **Chief Building Official** of readiness to submit to a final inspection within 30 working days of permit issuance.

8.0 **GATES AND LADDERS REGULATIONS**

- 8.1 Every *owner* of a *swimming pool* shall ensure that:
 - 8.1.1 Every *gate* is equipped with a self-closing mechanism and a self-latching device and such mechanisms and devices are in proper working order at all times;
 - 8.1.2 Every self-latching device is installed on the *swimming pool*; side of each *gate* near the top of the *gate* and such device is at least 1200mm (3 feet, 11 inches) above *ground level*.
 - 8.1.3 Every *gate* is *locked* at all times when the *swimming pool* or pool area is not being used; and
 - 8.1.4 Where the *swimming pool* is an above-ground *swimming pool*, every ladder or other stair assembly providing access to the *swimming pool* is *locked* in the upright position at all times when the *swimming pool* is not being used.

- 8.2 Notwithstanding Sec 8.1.1 of this by-law, a selfclosing mechanism shall not be required on a *gate* where such mechanism is deemed by the **Chief Building Official** as not practical for the type of *fence* and *gate* being used; however in all such cases, every *owner* of a *swimming pool* shall install and maintain comparable hardware as indicated by the **Chief Building Official** on the *site plan* or the permit issues by the **Municipality**.

9.0 **FENCES – RESIDENTIAL ZONES**

- 9.1 A *fence* in a residential zone:
- 9.1.1 Shall not exceed 1.2 metres (4 feet) in height when located in the front yard, measured at the base (finished grade) to the top of the *fence* on the applicant's side,
 - 9.1.2 Shall not exceed 1.2 metres (4 feet) in height in the rear yard of lakefront properties where access is provided from the rear yard to a public thoroughfare, measured at the base (finished grade) to the top of the *fence* on the applicant's side,
 - 9.1.3 Shall not exceed 1.8 metres (6 feet) in height when located in the side or rear yards, measured at the base (finished grade) to the top of the *fence* on the applicant's side, and
 - 9.1.4 Shall not exceed 0.9metres (3 feet) in height when located on a *daylight corner*, measured at the base (finished grade) to the top of the *fence* on the applicant's side, and
 - 9.1.5 Shall be constructed so as to permit at least 25% of the fence area, for the even passage of air and light, uniformly distributed over the face of the *fence*.
- 9.2 Notwithstanding section 9.1.4, a 1.2 metres (4 foot) chain link *fence* is permitted a *daylight corner* in a residential zone if
- 9.2.3 Its posts are not more than 80 mm (3 inches) in diameter, and
 - 9.2.4 It is made of wire having a maximum gauge of twenty-four and a minimum mesh of 50 mm (2 inches)

10.0 **FENCES IN COMMERCIAL INDUSTRIAL or RURAL ZONES**

- 10.1 *Fences* in a commercial, industrial or rural zone:
- 10.1.1 Shall not exceed 1.8 metres (6 feet) in height when located in the front yard, measured at the base (finished grade) to the top of the *fence* on the applicant's side,
 - 10.1.2 Shall not exceed 2.4 metres (8 feet) in the side or rear yards, measured at the base (finished grade) to the top of the *fence* on the applicant's side, and
 - 10.1.3 Shall not exceed 0.9 metres (3 feet) in height when located on a *daylight corner*, measured at the base (finished grade) to the top of the *fence* on the applicant's side.
- 10.2 Notwithstanding section 10.1.3, a 1.8 metres (6 feet) chain link *fence* is permitted on a *daylight corner*, in a commercial, industrial or rural zone if:
- 10.2.1 Its posts are not more than 80 mm (3 inches) in diameter, and
 - 10.2.2 It is made of wire having a maximum gauge of twenty-four and a minimum mesh of 50 mm (2 inches)
- 10.3 A *fence* in a commercial, industrial, or rural zone may, upon approval by the **Chief Building Official**, be constructed with barbed wire or low voltage *fencing* and such approved barbed wire *fencing* must:
- 10.3.1 Have a maximum of three strands of barbed wire, and
 - 10.3.2 The first strand much be located at the top of the *fence* no less than 2.4 metres (8 feet) from the grade.
- 10.4 Notwithstanding section 10.1, 10.2 and 10.3, where a commercial or industrial zone abuts a residential zone, the *fence* shall be constructed in accordance with the requirements of section 9.1 and 9.2 of this by-law.

11.0 COMPLIANCE WITH OTHER BY-LAWS REQUIRED

- 11.1 The issuance of a permit by the *Municipality* authorizing the excavation, installation, construction or *erection* of any *swimming pool* and *swimming pool fence* within the *Municipality* does not permit or condone the violation of any other By-law in effect in the *Municipality*.

12.0 APPLICATION OF BY-LAW

- 12.1 In the event of any conflict between provisions of this By-Law and any provisions of the *Municipality* Zoning By-Law, or any other by-law or provisions thereof relating to *fencing*, the provisions of the most restrictive by-law shall prevail.
- 12.2 Notwithstanding any other provisions herein, a *fence* which is required and approved by *council* under the Planning Act shall be deemed to be in conformity with the provisions of this by-law.
- 12.3 Notwithstanding any other provisions herein, a *fence* which was legally erected prior to the enactment of this by-law but does not comply with the regulations will be allowed to continue to exist. Such a *fence* may be repaired or maintained until a new *fence* is to be constructed. The new *fence* will be required to meet the regulations contained in this by-law.

13.0 ADMINISTRATION AND ENFORCEMENT

- 13.1 If, in the opinion of the *Chief Building Official* or designate, a *fence* does not comply with the provision of this By-law, the *Chief Building Official*, or designate, shall notify in writing, the *owner*, agent or *person* responsible for the said *fence*, of the requirement to bring the *fence* into compliance with the provisions of this by-law.
- 13.2 The *owner*, agent or *person* responsible for the said *fence* shall comply with the provisions of the notice within the time frame specified.
- 13.3 In the event of non-compliance with such notice, or if in the opinion of the *Chief Building Official* a contravention of this by-law exists and it is determined that it is an emergency situation, the *Chief Building Official* may cause the *fence* to be removed at the expense of the said *owner* or occupier and such expense shall be a debt due by such *owner* or occupier to the *Municipality* and same may be recovered in a like manner as Municipal taxes.

14.0 GENERAL PROVISIONS

- 14.1 No *person* shall *erect* or cause to be *erected* or permit to be *erected* or maintained a *fence* on any lands in the *Municipality*, unless such *fence* is:
- 14.1.1 Constructed of materials that are specifically designed or commonly utilized for fencing purposes;
- 14.1.2 In good repair;
- 14.1.3 Sufficiently sturdy so as not to present a hazard through the risk of toppling or collapse or through risk of portions coming loose that could become a hazard; and,
- 14.1.4 Where comprised in whole or in part of a hedge, shrub, or planting material be regularly pruned, trimmed or otherwise maintained so as not to obstruct pedestrian or vehicular traffic or obscure visibility;
- 14.1.5 In the opinion of the *Chief Building Official* or his or her designate, not a view or obstruction hazard for pedestrian or vehicular traffic or does not obscure visibility;
- And, is in the compliance with the provisions of this by-law.
- 14.2 Subject to Section 11.2 herein, no person shall *erect* or cause to be *erected* on any land in the *Municipality*, a *fence* which either contains or is constructed wholly or partly of barbed wire or other barbed or sharp material without the *Chief Building Officials* approval.

- 14.3 Notwithstanding Section 14.3, no *person* shall erect, construct or maintain a *fence* composed wholly or partly of barbed wire or other barbed material in an industrial zone of the *Municipality* unless such barbed wire or other barbed material begins at a height of 1.8 metres (6 feet) measured from the lowest grade level and is cantilevered from the top of such *fence* in a direction away from adjacent properties, including highways.
- 14.4 No person shall *erect*, construct or maintain or permit to be *erected*, constructed or maintained a plastic safety *fence* except:
- 14.4.1 On a construction site, or,
- 14.4.2 On a demolition site, or,
- 14.4.3 On a site requiring fencing in conformation with Fire, Police or Municipality Building Department orders.
- 14.5 It shall be lawful for a *person* to *erect*, construct or maintain or permit to be *erected*, constructed or maintained, a wooden snow *fence* on a temporary basis on private property only between the time period of October 15 of one year to April 15 of the following year, provided that the wooden snow *fence* does not cause or contribute to unwanted snow accumulation on adjacent public or private property.

15.0 **TEMPORARY FENCING**

- 15.1 Notwithstanding the requirements of sections 14.1 and 14.6, temporary *fencing* shall be permitted around the perimeter of the property or *swimming pool* for a maximum of 30 working days after issuance of the pool permit for the purposes of excavating constructing *or erecting* the *swimming pool* provided that the temporary *fencing* is not less than 1.2 metres (4 feet) high with soundly erected *fence* posts that are not more than 2.4 metres (8 feet) apart and the temporary *fence* shall include a chain and a *lock* on the function of the enclosure.
- 15.2 If a temporary *fence* is installed as permitted in section 14.6.1 a *fence* complying with the requirements of this by-law except section 14.6.1 shall be completed within 30 working days of permit issuance.

- 16.0 Every person who contravenes any of the provisions of this by-law is guilty of an offence punishable in accordance with the provisions of the Provincial Offences Act.

READ A FIRST TIME THIS 2ND DAY OF OCTOBER, 2007.

READ A SECOND TIME THIS 2ND DAY OF OCTOBER. 2007.

READ A THIRD TIME AND FINALLY PASSED THIS 16TH DAY OF OCTOBER 2007.

MAYOR, Hector Lavigne

CLERK, Jeff Celentano

Schedule “B” to By Law 2007-1060

Enacted by the Municipality of Callander

	Fees \$
SWIMMING POOL PERMIT (set fee)	120.00
PROPERTY FENCE (set fee)	100.00

**Schedule “A: to By Law 2007-1060
Enacted by the Municipality of Callander**

**LIST OF PLANS OR WORKING DRAWINGS AND INFORMATION TO
ACCOMPANY APPLICATIONS FOR POOL PERMITS**

1. Scale site plan detailing including:
 - a. Location and dimensions of property lines
 - b. Location of all buildings of property site
 - c. Location of pool equipment
 - d. Location of pool and deck
 - e. Location of fence
 - f. Type of fence (may require elevation drawing)
 - g. Height of fence
 - h. Indicate proposed drainage patterns including swales
 - i.

2. Property Owners Commitment Form

Note: The Chief Building Official may specify that not all the above mentioned plans are required to accompany an application for a permit unless otherwise required in the by-law.