

BY-LAW NO. 23-17

OF THE CORPORATION OF THE TOWN OF AYLMER

Being a by-law of the Corporation of the Town of Aylmer to provide for prohibiting and regulating of fences within the municipality and to repeal By-law 15-78.
(Fence By-law)

WHEREAS the Municipal Act, 2001, S.O. 2001, c.25, S.130 provides that a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to health, safety and well-being of the inhabitants of the municipality.

AND WHEREAS the Municipal Act, 2001, S.O. 2001, c.25, s.11 provides that a municipality may pass by-laws respecting structures, including fences.

AND WHEREAS the Council of the Corporation of the Town of Aylmer deems it necessary to prohibit and regulate fences within the Municipality.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF AYLMER ENACTS AS FOLLOWS:

1. THAT no person shall construct, erect, maintain or keep within the Town of Aylmer any fence in contravention of the provisions of this by-law, unless such fence was erected in compliance with the predecessor of this by-law and is not moved, altered or enlarged in any way.

Definitions

2. That in this by-law:

- (a) Building Line shall mean the regulatory or established building line as defined by the applicable zoning by-law affecting the property.
- (b) Building Envelope means that area of a lot within which a principal building could be constructed in compliance with the site development specifications as outlined in the applicable zoning by-law.
- (c) Fence shall mean a structure of vertical, horizontal or diagonal members of any combination thereof, erected as a barrier, enclosure or demarcation outside the building envelope. A hedge shall not be used as a fence for the purposes of this by-law.
- (d) Fence Height shall mean the measurement from the base of the fence at grade of the highest adjacent ground to the finished top of the fence.

- (e) Front Lot Line shall mean the lot line that divides the lot from the street.
- (f) Privately-Owned Outdoor Swimming Pool shall mean a swimming pool capable of having a water depth of 0.6 metres or more at any point and is located on private property under the control of the owner or occupant, which has been designed for swimming or bathing, but shall not include an existing natural body of water or watercourse in the areas zoned agricultural or open space in the applicable zoning by-law.
- (g) Shadow Fence shall mean a fence consisting of alternating vertical boards on both sides of a top and bottom rail.

3. Fencing of Privately-Owned Outdoor Swimming Pools

No person shall construct or maintain a privately-owned outdoor swimming pool unless the pool or the land on which such pool is located is fenced or enclosed in accordance with the following provisions:

- (a) every such fence shall be not less than 1.5 m in height;
- (b) every fence shall be constructed so that all diagonal members shall be to the pool side of the fence and every fence having horizontal members shall be constructed so that all horizontal members are to the pool side of the fence unless the horizontal members are a minimum of 1.1 metres apart;
- (c) every such fence shall be composed of:
 - (i) chain link construction, 38mm x 38mm as determined in accordance with Schedule "B"; or
 - (ii) vertical members where the spacing between such vertical members is greater than 25 mm but not greater than 50 mm and the horizontal rails are a minimum of 1.1 metres apart, as determined in accordance with Schedule "B"; or
 - (iii) vertical members where the spacing between such vertical members is no greater than 25 mm, as determined in accordance with Schedule "B";
 - (iv) shadow fencing 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, as determined in accordance with Schedule "B".
 - (v) The use of wood lattice is permitted for the top portion of any of the fence types mentioned in Section 3 (c) (ii), (iii), (iv) of this by-law as follows:

(i) where the fence is a maximum height of 1.5 m, wood lattice for the top portion shall not exceed 300 mm, as determined in accordance with Schedule "C"

(ii) where the fence is a maximum height of 1.8 m, wood lattice for the top portion shall not exceed 600 mm, as determined in accordance with Schedule "C";

(vi) Above Ground Pools

(i) A vertical iron bar or wood fence shall be permitted for protection on the upper portion of an above ground pool provided the sides of the pool are a minimum of 1.1 m above grade and the spacing in the fence does not exceed 100 mm, between vertical members, as determined in accordance with Schedule "E";

(vii) In Ground Pools

(i) A vertical iron bar fence shall be permitted for protection of inground pools provided the spacing of the bars does not exceed 100 mm, between vertical members, and all horizontal rails are a minimum of 1.1 m apart, as determined in accordance with Schedule "E";

(viii) Hot Tubs

Hot Tubs shall be fitted with a tight fitted cover, with a locking device or be protected with a 1.5 m minimum height fence;

(d) where the fence required for a privately owned outdoor swimming pool will abut an existing embankment, retaining wall, fence or structure, or thing such that the protection provided by the separation is negated, the minimum separation of 1.5 metres is required as shown in schedule "F";

(e) every such fence shall

(f) be constructed so that the only means of entry is by gates or doors of not less than 1.5 m in height and such gate or door shall be capable of being locked;

(f) a dwelling, building or accessory building, or part thereof, may be used to enclose a pool;

(g) in the case of an above ground privately-owned swimming pool where the walls of the pool satisfy all of the requirements otherwise required for fences which enclose swimming pools, no other fence is required;

(h) where two pools have been installed on adjacent lots, the fence separating such pools shall be a minimum of 1.5 metres in height and where such pools are installed, section 3(b) shall not apply;

(i) the provisions of this by-law shall not apply to any pool which is subject to the regulations under the Building Code Act 1992 S.O.1992, Chapter 23, Section 3.11.

4. No person shall excavate for, erect or construct a privately-owned outdoor swimming pool without first submitting the following plans and obtaining a permit:

(a) a plot plan showing the location of such pool and all other structures on the lot and within 1.5m of any adjacent lot;

(b) the types of materials to be used for fencing and gates as well as the height and construction design.

5. Notwithstanding the height restrictions of this by-law, nothing shall prevent the operator of a salvage yard from erecting a fence up to a maximum height of 3.0 metres.

6. Subject to Section 7 herein but notwithstanding the other provisions of this by-law, nothing shall prevent the construction and maintenance of farm fences in agricultural or open space zones as defined by the applicable zoning by-law.

7. The use of any device for projecting an electric current through or in conjunction with a fence is prohibited except on farm fences in any agricultural zone as defined by the applicable zoning by-law.

8. The provisions of this Town of Aylmer by-law shall not apply to the erection of fences for public safety by the Corporation of the Town of Aylmer or any local boards thereof, any public utilities commission, including Eastlink, Natural Resource Gas, Erie Thames, Hydro One, all boards of education and Elgin County.

9. Attached as Schedule "G" is a Metric Conversion Chart - it is attached for reference purposes

OFFENCE

10. Any person who contravenes any provisions of this by-law is guilty of an offence and is liable to a fine as provided in the Provincial Offences Act.

SHORT TITLE

11. This By-law may be cited as the Fence By-law.

BY-LAW REPEAL

12. THAT Town of Aylmer By-law No. 15-78 and all other by-laws inconsistent hereto are hereby repealed.

READ A First and Second time this 10th day of July 2017.

DEPUTY MAYOR
Mary French for

Mary French
MAYOR, Greg Currie

Nancie J. Irving
CLERK, Nancie J. Irving

READ A Third time and finally passed this 14th day of August 2017.

DEPUTY MAYOR
Mary French for

Mary French
MAYOR, Greg Currie

Nancie J. Irving
CLERK, Nancie J. Irving