

CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BYLAW NO. 26-12

A Bylaw to Amend Bylaw No. 24-09 Being a Bylaw to regulate enclosures around privately-owned pools in the Municipality of Strathroy-Caradoc

WHEREAS Council did at its meeting held May 4th, 2009 adopted Bylaw No. 24-09 being a Bylaw to regulate enclosures around privately-owned pools in the Municipality of Strathroy-Caradoc.

AND WHEREAS Council deems it expedient to amend the said Bylaw.

AND WHEREAS at the Council meeting of May 22nd, 2012 the Committee of the Whole minutes of May 7th, 2012 were adopted that Bylaw 24-09 being a Bylaw to regulate enclosures around privately-owned pools in the Municipality of Strathroy-Caradoc be amended.

NOW THEREFORE BE IT ENACTED BY THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC AS FOLLOWS:

1. **THAT:** Bylaw 24-09 be amended by adding Section 5.10 as follows:
"Swimming pools and hot tubs shall be maintained in good repair, free of leaks. Swimming pools and hot tubs shall be drained to the street or directly into a storm sewer system when being drained or emptied, and shall not be drained onto adjacent properties. The backwash from swimming pools and hot tubs shall be drained to either a sanitary sewer or a storm sewer or may be spread on lawn areas provided seepage does not affect adjacent properties."
2. **THAT:** this bylaw come into force and take effect on the date of its final passage in Open Council.

Read a FIRST, SECOND AND THIRD TIME and Finally Passed in Open Council this 22nd day of May, 2012.

Original signed by Joanne Vanderheyden

Original signed by Angela Toth

Mayor

Clerk

**THE CORPORATION OF
THE MUNICIPALITY OF STRATHROY-CARADOC
BY-LAW NUMBER 24-09**

**BEING A BY-LAW TO REGULATE ENCLOSURES AROUND PRIVATELY-OWNED
POOLS IN THE MUNICIPALITY OF STRATHROY-CARADOC**

WHEREAS Section 9 of the Municipal Act, S.O. 2001, Chapter 25, authorizes a municipality to pass by-laws concerning the issuance of permits and related matters;

AND WHEREAS Section 11 of the Municipal Act, S.O. 2001, Chapter 25, authorizes a municipality to pass by-laws to regulate structures including fences;

AND WHEREAS the Council of the Corporation of the Municipality of Strathroy-Caradoc deems it to be in the public interest to regulate the fencing and enclosure of privately-owned outdoor pools in the Municipality for the purpose of protecting the health, safety and general welfare of the inhabitants of the Municipality of Strathroy-Caradoc

**NOW THEREFORE BE IT ENACTED BY THE COUNCIL OF THE CORPORATION OF
THE MUNICIPALITY OF STRATHROY-CARADOC AS FOLLOWS:**

1. Title

- (1) This By-law may be referred as the "Pool Fences By-law".

2. Scope and Intent

- (1) This By-law shall regulate the location, size, construction, alteration, repair and maintenance of all privately-owned pool enclosures within the corporate limits of the Municipality of Strathroy-Caradoc.
- (2) All privately-owned pools located on public and private property within the corporate limits of the Municipality of Strathroy-Caradoc are subject to the provisions of this By-law.
- (3) This By-law does not apply to irrigation ponds, stormwater management ponds, or natural water course.

3. Definitions

- (1) "Designated Official" shall mean the Chief Building Official, By-law Enforcement Officer or any other officer of the Municipality who has been assigned the responsibility of administering and enforcing this By-law, or their designate.
- (2) "Enclosure" shall mean a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor pool to restrict access thereto.
- (3) "Municipality" shall mean the Municipality of Strathroy-Caradoc

- (4) "Hot tub" shall mean a container filled with heated water circulated with jets used for communal leisure and / or therapeutic bathing and includes a Jacuzzi, spa, or whirlpool.
- (5) "Permit" shall mean a permit issued under this By-law and the Municipality's Building By-law.
- (6) "Person" shall mean any individual, company, corporation, partnership, firm, trust, sole proprietorship, government or government agency, authority or entity, however constituted, joint venture, syndicate or any other legal entity, and includes all successor, assigns or other legal representatives of any such entities.
- (7) "Pool" shall mean any privately-owned body of water, which is:
- a) located outdoors;
 - b) wholly or partially contained by artificial means;
 - c) capable of holding water in excess of sixty-one (61) centimetres at any point;
 - d) an open exposed water surface of at least one (1) square metre and includes a landscape / decorative pond meeting the above criteria, but for purposes of this By-law does not include a:
 - i) pond or reservoir to be utilized for farming purposes or as part of a golf course,
 - ii) pool owned by any public or governmental body, agency or authority,
 - iii) natural body of water or stream.
 - iv) publically or privately owned stormwater management pond
 - v) hot tub.
- (8) "Owner" shall include the registered owner, lessee, tenant, or the person in possession of property on which a pool is located.
- (9) "Self-closing Device" shall mean a mechanical device or spring which returns a gate to its closed position after it has been opened.
- (10) "Self-latching Device" shall mean a mechanical device or latch which is engaged each time the gate is secured to its closed position, which will not allow the gate to be re-opened by pushing or pulling and which will ensure a gate remains closed until unlatched by either lifting or turning the device itself directly or by a key.

4. Existing Pool Enclosures

- (1) The provisions of this By-law shall not prevent the use of an existing pool enclosure if said enclosure was constructed prior to the effective date of this By-law and in accordance with the regulations of By-law 26-78 of the former Town of Strathroy or By-law 8-96 of the former Township of Caradoc and has been maintained continuously in accordance with said by-laws.

- (2) At such time as an existing pool enclosure is replaced or substantially altered, the replacement or altered pool enclosure shall be constructed in accordance with this By-law.
- (3) Where an existing pool enclosure was constructed and has been continuously maintained in accordance with the regulations that existed prior to the effective date of this By-law and that pool enclosure also marks the boundary between abutting properties, the shared portion of the pool enclosure may form part of a new pool enclosure for a pool on the abutting property and shall be deemed to be in conformity with this By-law. All other portions of the new pool enclosure surrounding the newly constructed pool shall meet the standards as set out in this By-law.

5. Prohibitions

- (1) No person shall construct or install a pool, cause a pool to be constructed or installed, or commence the construction or installation of a pool without first obtaining the relevant permit from the Municipality.
- (2) No person shall construct or install a pool or cause a pool to be constructed or installed which is not completely enclosed by a pool enclosure in accordance with this By-law.
- (3) No person shall construct or cause to be constructed any pool enclosure which does not conform to the requirements of this By-law, or permit such non-conforming pool enclosure to continue to enclose a pool.
- (4) No person shall fill a pool with water or cause a pool to be filled with water or allow water to remain in a pool unless:
 - a) the pool is enclosed by a pool enclosure meeting the requirements of Sections 6 and 7 of this By-law;
 - b) the designated official has been notified and the pool enclosure has been inspected and approved by the Municipality;
- (5) No person shall remove or permit the removal of any part of a pool enclosure if the pool is filled with water.
- (6) No person shall alter or replace or permit the alteration or replacement of a pool enclosure without having first obtained the relevant permit from the Municipality.
- (7) No owner shall fail to ensure that:
 - a) all gates and doors forming part of the pool enclosure meet the standards of this By-law;
 - b) all gates and doors forming part of a pool enclosure are secure when the area is not in active use;

- c) the lockable lid of any hot tub is closed and locked when not in active use unless the hot tub is located within a pool enclosure meeting the requirements of this By-law.
- (8) No person shall place, pile, attached or lean any object or material against or near a pool enclosure so as to facilitate climbing of a pool enclosure, diminish the structural integrity of a pool enclosure or render the pool enclosure in non-conformity with the provisions of this By-law.
- (9) No person shall allow or construct any part of any enclosure required by this By-law which consists of barbed wire or which conducts an electric current or which poses a danger of injury to a person who comes in contact with said enclosure.

6. Standards for Pool Enclosures

- (1) Every owner of a pool shall ensure that the pool is enclosed by a pool enclosure that satisfies the following standards:
 - a) The pool enclosure shall extend from the ground to the height of not less than one hundred and twenty (120) centimetres and shall fulfill the intent of prohibiting unauthorized trespass to the pool.
 - b) Every pool enclosure shall:
 - i) be constructed of vertically boarded wood construction, solid wood, masonry, plastic or metal;
 - ii) have no rails or other horizontal or diagonal bracing or attachments on the outside face that may facilitate climbing;
 - iii) have no opening with a horizontal dimension greater than five (5) centimetres and not more than ten (10) centimetres apart where rails or horizontal supports are spaced one-and-one-half (1.5) metres apart;
 - iv) have a ground clearance space no greater than ten (10) centimetres at any point under the enclosure;
- (2) Notwithstanding Subsection 6(1), the walls of a building may form part of an enclosure.
- (3) An enclosure which complies with the provisions of this By-law shall be deemed sufficient, if it completely encloses the yard in which the pool is located, but said enclosure must be setback a minimum of one-hundred and twenty (120) centimetres from the pool.

7. Standards for Gates & Doors

- (1) Every owner of a pool shall ensure that all gates, doors and access points into the pool enclosure as described in Section 6 satisfies the following standards:

- a) Gates, doors and access points shall be of the same construction and height to that required for the enclosure.
 - b) Gates, doors and access points shall be equipped with self-closing and self-latching devices placed at the top of the gate and on the pool side of the gate or equipped with a lock.
- (2) When walls of a building form part of an enclosure all doors affording access from a building directly to a pool, other than doors located in a dwelling, shall be equipped with a self-closing device located not less than one-hundred and twenty (120) centimetres above the bottom of the door.

8. Partial Exemption for Hot Tubs

- (1) Hot tubs, need not comply with Sections 6 and 7 of this By-law provided that a substantial cover is fixed securely to the hot tub and locked to prevent access when the hot tub is not in use.

9. Construction Measures

- (1) During the construction of a pool every owner is required to provide, at a minimum, a temporary enclosure which shall be replaced with a permanent enclosure in compliance with Sections 6 and 7 of this By-law when the pool is completed.
- (2) A temporary enclosure shall be a minimum of one-hundred and twenty (120) centimetres high and shall be securely attached to any openings when the pool is unattended.

10. Administration, Enforcement & Penalty

- (1) The designated official will be responsible for the administration and enforcement of this By-law on all public and private property within the limits of the Municipality.
- (2) The designated official may enter upon any property at any reasonable time to inspect a pool and / or pool enclosure for the purpose of determining or affecting its compliance with this By-law.
- (3) Every person who contravenes this by-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the Provincial Offences Act, R.S.O. 1990, c.P. 33.
- (4) The fine for an offence as established by this By-law are hereto annexed and marked as Schedule 'A' to this By-law.
- (5) In addition to the foregoing penalty, failure to comply with the provisions of this By-law may result in the Municipality undertaking to complete the work and any costs associated with the work shall be billed to the registered property owner in a like manner as taxes.

- (6) In the case of an immediate safety hazard, where the designated official has been compelled to remove said hazard, the work and any costs associated with the work shall be billed to the registered property owner in a like manner as taxes.

11. Conflict & Severability

- (1) Where a provision of this by-law conflicts with a provision of any applicable government regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.
- (2) Where a provision of this by-law conflicts with any other by-law, the by-law that carries the higher standard shall prevail.
- (3) In the event that any of the provisions of this by-law are deemed *ultra vires* by any Court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

12. Effective Date & Repeal of Existing By-laws

- (1) This by-law shall come into full force and effect on the date it is approved by Council.
- (2) By-law 8-96 of the former Township of Caradoc and By-law 26-78 of the former Town of Strathroy are hereby repealed.

Read a FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL this 4th day of May 2009.

Original signed by Mel Veale

Mayor

Original signed by Angela Toth

Clerk

**THE CORPORATION OF
THE MUNICIPALITY OF STRATHROY-CARADOC
BY-LAW NO. 24-09**

**Being a by-law to regulate enclosures around privately-owned pools in the
Municipality of Strathroy-Caradoc
SCHEDULE "A"**

Part I Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Failure to obtain a permit for the installation and / or construction of a pool	5(1)	\$100
2	Failure to completely enclose a pool	5(2)	\$100
3	Failure to conform to the pool enclosure requirements	5(3)	\$100
4	Failure to enclose a pool filled with water	5(4) a)	\$100
5	Failure to notify and have the pool and / or pool enclosure inspected and approved by the Municipality	5(4) b)	\$100
6	Permit the removal of any part of a pool enclosure while the pool is filled with water	5(5)	\$100
7	Permit an alternation / replacement of a pool without a permit	5(6)	\$100
8	Failure to ensure that any hot tub is closed and locked when not in active use	5(7) c)	\$100
9	Permit objects or materials to facilitate climbing of a pool enclosure	5(8)	\$100

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SCHEDULE "A"**

Part I Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
10	Permit a pool enclosure that may pose a danger or injury to a person	5(9)	\$100
11	Failure to ensure a pool enclosure meets the minimum height requirement	6(1) a)	\$100
12	Failure to ensure a pool enclosure is constructed of permitted materials	6(1) b) i)	\$100
13	Permit a pool enclosure that may facilitate climbing	6(1) b) ii)	\$100
14	Permit a pool enclosure with openings in excess of maximum size permitted	6(1) b) iii)	\$100
15	Permit a pool enclosure with a ground clearance in excess of maximum clearance permitted	6(1) b) iv)	\$100
16	Failure to ensure gates, doors and access points meets the minimum height requirement	7(1) a)	\$100
17	Failure to ensure that gates, doors and access points are equipped with self-closing / self-latching devices	7(1) b)	\$100
18	Failure to ensure that an access point from a wall enclosing a pool is equipped with a self-closing / self-latching device	7(2)	\$100

"NOTE: THE GENERAL PENALTY PROVISION FOR THE OFFENCES LISTED ABOVE IS SECTION 10(3) OF BYLAW 24-09, A CERTIFIED COPY OF WHICH HAS BEEN FILED".