



**BY-LAW NUMBER 128-2003
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to regulate the height and description of lawful fences and hedges 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 and to repeal By-law 166-2002 and any amendments thereto.

WHEREAS Section 130 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended from time to time, authorizes a municipality to regulate matters for purposes related to the health, safety and well-being of the inhabitants of the municipality;

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;

AND WHEREAS Section 11(1)1 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 highways;

AND WHEREAS Section 62(1) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended from time to time, authorizes a municipality to, at any reasonable time, enter upon land lying along any of its highways to inspect trees and conduct tests on trees, to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway;

AND WHEREAS Section 62(2) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended from time to time, authorizes an agent or employee of a municipality to remove a decayed, damaged or dangerous trees or branch of trees immediately and without notice to the owner of the land upon which the tree is located if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway;

AND WHEREAS Section 391 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended from time to time, authorizes a municipality to pass by-laws imposing fees or charges on any class of persons, for services or activities provided or done by or on behalf of it, for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board, for the use of its property including property under its control, for capital costs payable by it for sewage and water services or activities which will be provided or done by or on behalf of it after the fees or charges are imposed;

NOW THEREFORE BE IT ENACTED by Council of Corporation of the City of Stratford as follows:

1.0 Title

This by-law shall be known as the “**Fence and Hedge By-law**” of the Corporation of the City of Stratford.

2.0 Definitions

For the purposes of this By-law, the following definitions shall apply:

“**Boulevard**” means that portion of a highway or street not used as a sidewalk or as a travelled roadway;

“**By-law enforcement officer**” means a by-law enforcement officer appointed by Council;

“**Chief Building Official**” means the Chief Building Official of The Corporation of the City of Stratford;

“**City**” means The Corporation of the City of Stratford;

“**Council**” means the municipal Council of The Corporation of the City of Stratford;

“**Director of Infrastructure and Development Services**” means the Director of Infrastructure and Development Services of The Corporation of the City of Stratford and includes his/her designate;

“**Driveway**” means a vehicle access provided between a street and a parking area/space or a loading space;

“**Electrical fence**” means a fence through which electricity passes;

“**Erect**” includes alter, construct, plant, grow, place and relocate;

“**Fence**” includes any one or combination of the following:

- a railing,
- wall,
- structure except utility structures,
- barrier of any construction or kind whatsoever,
- planting material,
- rock(s)
- line of posts,
- wire,
- masonry wall,
- pillar(s),
- gate,
- boards,
- pickets,
- retaining wall or other similar substances,
- tree,
- hedge,
- shrub,
- 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 municipal 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;

“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;

“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;

“Person” means an individual, firm, corporation, association or partnership;

“Planting material” means any vegetation other than a tree, hedge or shrub;

“Privately owned outdoor swimming pool” means any body of water located outdoors on privately owned land, contained in whole or in part by artificial means in which the depth of the water at any point exceeds 0.9 metres (3 feet) and is used or intended to be used for swimming, wading, diving or bathing and includes, but is not limited to, hot tubs, whirlpools and spas, but does not include temporary pools or landscaped water features.

“Sight triangle” means a sight triangle as defined in the City of Stratford Zoning By-law and any successor thereto;

“Street” means a public highway or road allowance, opened or unopened, or any City right of way or easement, which provides or may provide the principal means of vehicular access to abutting lots and includes all lands between both street lines and includes the sidewalks and boulevards;

“Utility” means any water works, artificial or natural gas works, electric, heat, light or power works, telegraph lines, works for the transmission of gas, oil, water or electrical power or energy or any similar works supplying the general public with necessities or conveniences, or works for telecommunication services such as cable for the purposes of transmitting voice, data, video or video imaging or television broadcasting.

“Landscaped water feature/fish pond” means any body of water located outdoors on privately owned land contained in whole or in part by artificial means and is used or intended to be used for the purposes of decoration.

“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.

3.0 Application of By-law

- 3.1 Fences lawfully erected prior to the passage of this By-law are exempt from the provisions of Section 5 unless in the opinion of the Chief Building Official, they constitute a view obstruction or like hazard, in which case the provisions of this By-law shall apply.
- 3.2 In the event that an existing or proposed fence does not comply with this By-law, the owner may appeal to Council through the Infrastructure, Transportation and Safety Sub-committee, and Council shall have, for the purposes of this By-law, in addition to its other powers, the power to grant an exemption by by-law amendment at the sole discretion of Council. Every notice of appeal shall include the prescribed fee as set out in Schedule “C”.
- 3.3 In the event of any conflict between the provisions of this By-law and any provisions of the City of Stratford Zoning By-law, or any other by-law or provisions thereof relating to fencing, the provisions of the most restrictive by-law shall prevail.

- 3.4 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.
- 3.5 Fences comprised in whole or in part of planting material, or which are hedges or shrubs, shall be pruned and trimmed by the owner or occupant of the property on a regular basis to ensure that the vegetation or plant material does not exceed the provisions of this by-law.

4.0 Administration and Enforcement

- 4.1 If, in the opinion of the Chief Building Official or designate, a fence does not comply with the provisions 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.
- 4.2 The owner, agent or person responsible for the said fence shall comply with the provisions of the notice within the time frame specified.
- 4.3 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 Corporation of the City of Stratford and same may be recovered in a like manner as municipal taxes.
- 4.4 Failure to comply with the written direction of the City constitutes a contravention of this By-law for which the owner, agent or person responsible can be subject to the penalty set out in Section 8 of this By-law.
- 4.5 Where a fence has been constructed or planted on the street without prior approval and the fence does not comply with the provisions of this by-law, the Chief Building Official or designate, may cause the fence to be brought into compliance with the provisions of this by-law or to be removed without prior notice. The fence shall be removed or brought into compliance at the expense of the person responsible for the said fence and such expense shall be a debt due by such person to the City and same may be recovered in like manner as municipal taxes.
- 4.6 Where a fence has been constructed or planted on the street with prior approval of the City and the fence does not comply with the provisions of the approval, the Chief Building Official or designate, may cause the fence to be brought into compliance with the approval and the provisions of this by-law, or to be removed, subject to 10 days notice of intent provided to the person responsible for the said fence.

5.0 General Provisions

- 5.1 No person shall construct, erect, maintain, keep or permit within the City of Stratford any fence that is in contravention of any of the provisions of this By-law.
- 5.2 No person shall construct, erect, maintain, keep or permit within the City of Stratford any fence on public property including any street as defined in this by-law without the prior written permission of Council.
- 5.3 No person shall erect or cause to be erected or permit to be erected or maintained a fence on any lands in the City of Stratford, unless such fence is:
 - i) constructed of materials that are specifically designed or commonly utilized for fencing purposes;
 - ii) in good repair;

- iii) 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,
- iv) where comprised in whole or in part of a hedge, shrub, or planting material regularly pruned, trimmed or otherwise maintained so as not to obstruct pedestrian or vehicular traffic or obscure visibility;
- v) 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 compliance with the provisions of this by-law.

- 5.4 Subject to Section 5.5 herein, no person shall erect or cause to be erected on any land in the City of Stratford, a fence which either contains or is constructed wholly or partly of barbed wire or other barbed or sharp material.
- 5.5 Notwithstanding Section 5.4, 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 City of Stratford unless such barbed wire or other barbed material begins at a height of 1.83 metres measured from the lowest grade level and is cantilevered from the top of such fence in a direction away from adjacent properties, including highways.
- 5.6 No person shall erect or cause to be erected or permit to be erected or maintained an electrical fence on any land in the City of Stratford.
- 5.7 Notwithstanding anything to the contrary in this By-law, it shall be lawful for a person to erect, construct or maintain a fence composed wholly or partly of barbed wire or other barbed material, or an electrical fence on agricultural zoned lands used for agricultural purposes in the City of Stratford.
- 5.8 No person shall erect, construct or maintain or permit to be erected, constructed or maintained a plastic safety fence except:
 - i) on a construction site, or,
 - ii) on a demolition site, or,
 - iii) on a site requiring fencing in conformance with Fire, Police or City Building Department orders.
- 5.9 It shall be lawful for a person to erect, construct or maintain or permit to be erected, constructed or maintained, a wooden snowfence 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 snowfence does not cause or contribute to unwanted snow accumulation on adjacent public or private property.
- 5.10 No person shall erect, construct or maintain or permit to be erected, constructed or maintained a fence higher than 0.75 metres measured from the lowest level of the travelled portion of the adjacent street from the face of the roadside curb to a point that is either 0.6 metres behind the rear edge of the sidewalk or 4.0 metres behind the roadside curb, whichever is the greater distance provided that, in the opinion of the by-law enforcement officer, that such fence does not:
 - i) obstruct pedestrian or vehicular traffic;
 - ii) obscure clear visibility of approaching pedestrian or vehicular traffic; and
 - iii) obstructs municipal operations.
- 5.11 No person shall erect, construct, maintain or permit to be erected, constructed or maintained a fence in the sight triangle or an extension of that sight triangle out onto the street except a fence not exceeding a height of 0.75 metres measured from the lowest level of the travelled portion of the adjacent street provided that, in the opinion of the by-law enforcement officer, such fence does not:

- i) obstruct pedestrian or vehicular traffic;
 - ii) obscure clear visibility of approaching pedestrian or vehicular traffic; and
 - iii) obstructs municipal operations.
- 5.12 Notwithstanding Sections 5.10 and 5.11, no person shall erect, construct, maintain or permit to be erected, constructed or maintained on the boulevard from a point 0.6 metres behind the rear edge of the sidewalk to the roadside curb, or if there is no sidewalk, from a point 1.2 metres behind the face of the roadside curb, any fence at a height exceeding the height of the top of the roadside curb or municipal sidewalk.
- 5.13 Notwithstanding Sections 5.10, 5.11 and 5.12, it is lawful for a person to plant and maintain planting material, excepting a tree(s), hedge(s) or a shrub(s) on the boulevard provided that:
 - i) such planting material does not exceed 0.6 metres from the top of the curb or municipal sidewalk;
 - ii) in the opinion of the by-law enforcement officer such planting material does not obstruct pedestrian or vehicular traffic;
 - iii) in the opinion of the by-law enforcement officer such planting material does not obscure clear visibility approaching pedestrian or vehicular traffic; and
 - iv) in the opinion of the by-law enforcement officer such planting material does not obstruct municipal operations.
- 5.14 Except as required in Section 5.10, a visibility triangle shall be maintained at the edge of each driveway that is measured 3.6 metres each way from the point of intersection of the driveway and back edge of the sidewalk, or where a sidewalk does not exist, a visibility triangle shall be maintained at the edge of each driveway that is measured 3.6 metres each way from the point of intersection of the driveway and a point that is 4.0 metres behind the roadside curb. Within the visibility triangle created by joining these three points, no person shall erect, construct, maintain or permit to be erected, constructed or maintained, any fence exceeding 0.75 metres in height measured above the surface of the driveway adjacent to the said visibility triangle and provided that in the opinion of the by-law enforcement officer such fence:
 - i) does not obstruct pedestrian or vehicular traffic;
 - ii) does not obscure clear visibility of approaching pedestrian or vehicular traffic; and
 - iii) does not obstruct municipal operations.
- 5.15 Where a person intends to create a new driveway or intends to widen an existing driveway, it shall only be permitted if the existing fence is already, or can be made to comply with the requirements of this by-law.

6.0 Fences Around Swimming Pools, Hot Tubs, Whirlpools and Spas

- 6.1 No person shall excavate for, erect or cause to be excavated for, erected or maintained a privately owned outdoor swimming pool in the City of Stratford unless such pool or the land or part of the land on which such pool is located or to be located is effectively fenced in accordance with the following provisions:
 - i) every fence shall be not less than 1.52 metres (5 feet) in height measured from the adjacent grade,
 - ii) so constructed that it cannot be used in a manner similar to a ladder, or so as to discourage climbing,
 - a. openings between vertical fence members shall be limited to a maximum spacing of 102 mm (4 inches);

- b. spacing or horizontal members shall be a minimum of 1.1 metres (3 feet, 6 inches) when vertical space members are spaced more than 25 mm (1 inch) apart;
 - c. horizontal members shall be on the pool side of the fence;
 - d. the bottom of fence members shall not be more than 102 mm (4 inches) above finished grade.
 - iii) so constructed that the only means of entry is by gates or doors,
 - iv) the wall of any dwelling house, building or accessory building may be utilized to effectively enclose any pool,
 - v) each fence gate or enclosure door shall be capable of being locked and have a self latching device. Each gate shall have the self latching device placed at the top and inside of each gate such that the gate latches when the gate is in the closed position. Each pool gate or door shall remain closed except when the pool is in actual use.
 - vi) subsection v) does not apply to the door of any dwelling house which forms part of the fence,
 - vii) the use of barbed wire in any manner or any device for projecting an electric current in connection with or through such perimeter fence is prohibited,
 - viii) a fence shall be structurally adequate to perform its intended function to prevent unauthorized entry to the swimming pool area,
 - ix) hot tubs, whirlpools or spas shall be fitted with a tight fitted cover, with a locking device or be protected with a 1.52 metre minimum high fence,
 - x) a division fence which complies with the provisions of this section shall be deemed a sufficient fence,
 - xi) 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.
- 6.2 Above ground swimming pools that have vertical walls of 1.52 metres or more measured on the outside of the pool, and are equipped with ladders or steps which may be raised or lowered, require a fence and gate as stated in subsection 6.1 enclosing such ladder or steps to prevent access to the pool in case the ladder or steps are left down, unless the ladders or steps are self-raising and are secured as stated in subsection 6.1 v).
- 6.3
- a) Notwithstanding the requirements of sections 6.1 and 6.3, temporary fencing shall be permitted around the perimeter of the property or pool for a maximum of 30 working days after issuance of the pool permit for the purposes of excavating, constructing or erecting the pool provided that the temporary fencing is not less than 1.22 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.
 - b) If a temporary fence is installed as permitted in section 6.3 (a) a fence complying with the requirements of this by-law except section 6.3 (a) shall be completed within 30 working days of permit issuance.

6.4

- a) No person shall commence or continue to excavate, construct or erect any swimming pool or a fence around a swimming pool unless the owner has obtained a permit from the City of Stratford.
- b) To obtain a pool permit, the owner or authorized agent shall file an application in writing by completing an application form available at the Building and Planning Department of the City of Stratford. Every application for permit shall include the information set out in Schedule "B" of this by-law along with the required fee prescribed in Schedule "C" except with respect to construction or installation of a pool where the work has commenced prior to the issuance of a permit, a special permit fee shall apply. A special permit fee shall be double the fee set out in Schedule "C."
- c) Where an application required in section 6.4 (b) has been made and the proposed fence and swimming pool set out therein conforms with this by-law and all other relevant by-laws of the City of Stratford, the Chief Building Official, or his or her designate, shall issue a pool permit.

6.5

- a) 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.
- b) Where excavated material other than topsoil is to remain on site, a lot grading plan completed by an Ontario Land Surveyor, Professional Engineer or Architect shall be submitted for review with the permit application.
- c) Installation of drainage piping, catch basins, drywells, french drains or similar appurtenances require prior approval from the Chief Building Official prior to installation of the proposed system. Installation of such system(s) may require a permit(s) as required by the Ontario Building Code.

6.6 Neither the granting of a pool permit nor the approval of the plans and specifications, nor inspections made by the City of Stratford during construction shall in any way relieve the applicant from full responsibility for carrying out the work in accordance with the requirements of this by-law.

6.7 The property owner to whom a pool permit has been issued shall notify the by-law enforcement officer of readiness to submit to a final inspection within 30 working days of permit issuance.

7.0 Exemptions

7.1 Nothing in this by-law relating to the height of fences, trees, hedges, shrubs, or planting materials shall apply to lands owned, leased, or used by:

- i) The Corporation of the City of Stratford;
- ii) a local board as defined in the *Municipal Affairs Act*;
- iii) utility companies.

7.2 Notwithstanding Section 7.1 iii) utility company equipment or structures shall be identified by reflective markings visible to City snow removal crews when the equipment or structures are less than 1.5 metres in height and,

- i) 1.2 metres from the edge of a travelled portion of the street or
- ii) 0.6 metres from either edge of a sidewalk.

- 7.3 Failure to comply with the requirements of Section 7.2 will result in the City not being held accountable financially or otherwise for damage to utility company equipment or structures caused by snow removal crews.

8.0 Penalty

- 8.1 Every person who contravenes any provision of this By-law is guilty of an offence and is liable, upon conviction, to a fine not exceeding \$5,000 exclusive of costs for each offence recoverable under the *Provincial Offences Act, R.S.O. 1990 Chapter P.33* as amended from time to time.

9.0 Severability

- 9.1 If a court of competent jurisdiction declares a Section or subsection of this By-law invalid, the remainder of the By-law shall continue in force and effect.

10.0 Repeal

- 10.1 This By-law, once it takes effect, repeals By-law 166-2002 and any amendments thereto.

11.0 Date of Effect

- 11.1 This by-law comes into force and takes effect upon final passage.

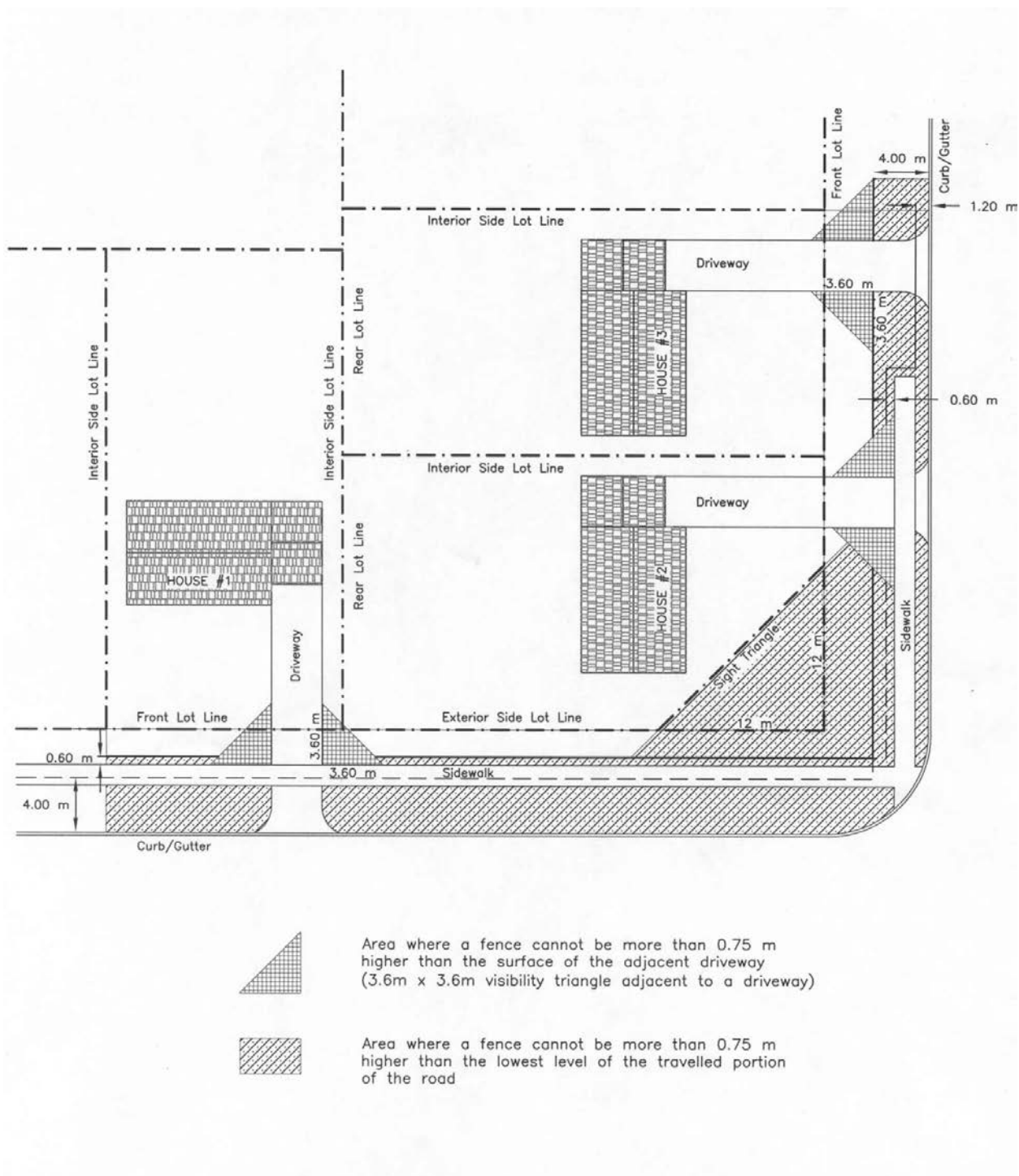
Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this 14th day of July, 2003.

"Karen Haslam"
Mayor – Karen Haslam

"Joan Thomson"
Clerk – Joan Thomson

**This is Schedule "A" to By-law Number 128-2003
enacted this 14th day of July, 2003**



**This is Schedule “B” to By-law Number 128-2003
Enacted this 14th day of July, 2003**

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 on 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
2. Property Owners Commitment Form
3. Scale lot grading plan completed by an OLS engineer or architect detailing:
 - a. all elevations pertinent to grading design including:
 - i) top of pool deck (existing and proposed)
 - ii) elevations at property lines (existing and proposed)
 - iii) elevations on neighboring properties (existing and proposed)
 - iv) swale elevations (existing and proposed)
 - b. indicate proposed drainage patterns including swales

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.

**This is Appendix “C” to By-law Number 128-2003
Enacted this 14th day of July, 2003**

These Fees and Charges take effect January 1, 2010

Item	Fee *
Swimming Pool Permit	\$200.00 above ground \$325.00 in-ground
Fence and Hedge By-law Exemption Appeal Request	\$500.00
Special Permit Fee A special permit fee with respect to construction shall be paid by the owner where any work has commence prior to the issuance of a permit. Payment of the special permit fee does not allow construction to continue without a permit.	The special permit fee shall be the regular permit fee plus an additional fee equal to 100% of the amount calculated as the regular permit fee in order to compensate the city for the additional work performed as a result of commencing work prior to permit issuance.

* These rates shall automatically increase and be rounded to the nearest dollar on the 1st day of January in each year by the percentage increase in the Consumer Price Index (CPI). CPI means the 12-month average of Total Consumer Price Index as published by Statistics Canada in November, using the most current October to October rates.