

**THE CORPORATION OF THE TOWNSHIP OF NORTH DUNDAS
BY-LAW No. 2020-16**

Being a By-law to regulate the enclosure for privately-owned outdoor swimming pools and spas within the Township of North Dundas.

WHEREAS Section 11(2) of the *Municipal Act, S.O. 2001, c. 25*, as amended, authorizes a municipality to pass by-laws concerning the health, safety and well-being of persons;

AND WHEREAS Section 11(3) of the *Municipal Act, S.O. 2001, c. 25*, as amended, authorizes a municipality to pass by-laws respecting structures, including fences;

AND WHEREAS Section 8(3) of the *Municipal Act, S.O. 2001, c. 25*, as amended, authorizes a municipality to regulate or prohibit in respect of matters within their jurisdiction, including fences, and to require persons to obtain permits and provide for a system of obtaining permits in relation to those matters;

AND WHEREAS Section 391(1) of the *Municipal Act, S.O. 2001, c. 25*, as amended, authorizes a municipality to pass by-laws imposing fees or charges on persons for services or activities provided or done by or on behalf of it, including permit fees for pool enclosure permits;

AND WHEREAS the Council of The Corporation of the Township of North Dundas deems it necessary to require fences and gates to be erected and maintained around pools and spas;

NOW THEREFORE the Council of The Corporation of the Township of North Dundas hereby enacts as follows:

1.0 SHORT TITLE

1.1 This By-law may be referred to as the "Pool Enclosure By-law" or the "Swimming Pool By-law."

2.0 DEFINITIONS

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

"Building" means any structures used or intended for supporting or sheltering any use or occupancy.

"Building Inspector" means an inspector appointed pursuant to subsection 3(2) of the *Ontario Building Code Act, 1992* and by By-law of the Township for the purpose of enforcement of the Act.

"Chief Building Official" means the Chief Building Official appointed pursuant to subsection 3(2) of the *Ontario Building Code Act* and by By-Law of the Township for the purposes of enforcement of the Act.

"Council" means the Council of The Corporation of the Township of North Dundas.

"Elevated Deck" means a deck that is constructed more than 610 mm (24") above grade and is adjacent to a pool or spa, allowing direct access;

"Enclosure" means any combination of fence, wall or other structure, including doors and gates, surrounding a pool, spa or other body of water to restrict access thereto.

“Fence” means a structure or partition made of wood, metal or other substance and erected for the purpose of enclosing a piece of land, to guard an area against entry, or to divide a piece of land into distinct partitions, and includes doors, gates and other closures. For the purposes of this By-law, a cedar hedge or any other organic material shall not be considered as part of a fence.

“Finished Grade” means the elevation of the average finished surface of the ground where it abuts a fence or structure.

“Gate” means part of a fence that is removable, swinging, sliding or otherwise used as a barrier to block or close an access area. A gate may include a door.

“Municipal Law Enforcement Officer” means a person appointed by the Township under Section 15 of the *Police Services Act, R.S.O. 1990, c. P.15*.

“Officer” means the Chief Building Official, a Building Inspector or a Municipal Law Enforcement Officer.

“Permit” means written permission or written authorization from the Chief Building Official to erect an enclosure around pool or spa as regulated by this By-law;

“Pool” or **“Swimming Pool”** means an artificially created body of water intended for swimming, bathing, wading or reflecting, and is capable of retaining water depth greater than 610 mm (24”) but shall exclude the following:

- a) a storm water management system;
- b) facilities or ponds used for water hazards or irrigation at a golf course;
- c) pools located completely inside of a building;
- d) facilities for the purposes of providing water to livestock;
- e) for irrigation of crops which are associated and located on land devoted to the practice of farming; and,
- f) under the jurisdiction of the Building Code.

“Pool Deck” means a deck that is adjacent to a pool, allowing access to the pool.

“Pool Equipment” means water circulation or treatment equipment such as pump, filters, and heaters.

“Owner” means the registered owner of a property, a lessee, a tenant, mortgagee in possession or person otherwise in charge of any property, acting as the authorized agent of the owner.

“Self-latching Device” means an automatic latching device attached to a fence, gate or door which prevents access from the outside.

“Self-closing Gate” means a device or combination of devices, spring or hinges capable of returning the enclosure to a closed and latched position after each use.

“Spa” means a hot tub of varied forms, provided with hydro-jets and holes by which escapes compressed air, the water of which is warmed and in continuous movement.

“Storm Water Management System” means any manmade or natural facility designed for the treatment, retention, infiltration or control of storm water, including drainage works and retention ponds.

“Temporary Fence” means a fence which complies with all of the following requirements:

- a) shall be a minimum of 1.2 metres in height;
- b) shall, if made of chain link, plastic mesh or wire fencing, have no openings greater than 50 mm (2”);
- c) shall have vertical support by T-bar posts or similar posts at a maximum separation distance between posts of 2.4 metres;
- d) shall have a horizontal support near the top and bottom of the fence, which shall be wood, wire or rope; which will ensure the fence is kept tight between posts; and,
- e) shall not have clearance from the surface below.

“Township” means The Corporation of the Township of North Dundas.

3.0 GENERAL REQUIREMENTS

- 3.1 Every owner of a privately-owned outdoor pool or spa shall ensure that an enclosure around such pool or spa is constructed and maintained according to the provisions of this By-law.
- 3.2 No person shall place water in a pool or spa located within the Township unless the prescribed enclosure or a temporary fence has been erected or installed in accordance with the provisions of this By-law.
 - 3.2.1 A temporary fence erected in accordance with the provisions of this By-law will be permitted for a maximum period of fourteen (14) days, at which point a permanent enclosure must be installed.
- 3.3 No person shall allow water to remain in a pool or spa located within the Township unless the prescribed enclosures, gates and/or temporary fences have been erected in accordance with the provisions of this By-law.
- 3.4 No person shall fill a pool or spa with water, or permit water to collect or remain in a pool, until an Officer has conducted an inspection and confirmed completion of the enclosure that fully complies with the provisions of this By-law.
- 3.5 The owner or installer is responsible for obtaining the required permit from the Electrical Safety Authority to do electrical connections.
- 3.6 No person shall replace an enclosure without a permit.

4.0 PERMITS

- 4.1 No person shall install or place a pool or spa on their property without first obtaining a pool enclosure permit.
- 4.2 Despite subsection 4.1, a permit is not required in the case of a pool or spa which has been dismantled and is being reconstructed in the same position, manner, and size in which it was previously located provided that:
 - 4.2.1 A permit was obtained for the original installation; and,
 - 4.2.2 The reinstallation meets the requirements of all currently applicable By-laws.

- 4.3 Where an enclosure is replaced, a permit shall be required.
- 4.4 Where an existing enclosure that was lawfully erected is repaired, a permit shall not be required.

5.0 APPLICATION FOR PERMIT

- 5.1 To obtain a permit, the owner shall file an application by completing the prescribed forms as outlined in Appendix "A" of this By-law.
- 5.2 Except as otherwise permitted by the Chief Building Official, every application shall:
 - 5.2.1 Identify and describe in detail the work to be covered by the permit for which an application is being made;
 - 5.2.2 Describe the land upon which the pool enclosure is to be constructed;
 - 5.2.3 Be accompanied by two (2) complete sets of plans showing details of the enclosure as well as its relationship to property lines, easements, waterbodies, water courses, buildings, decks, septic systems, mechanical system, and fences;
 - 5.2.4 Be accompanied by the fees as prescribed in section 6.0; and,
 - 5.2.5 State the names, addresses, and telephone numbers of the owner or authorized agent and the contractor performing the work.
- 5.3 At the discretion of the Chief Building Official, a permit may be deemed to have been abandoned and cancelled six (6) months after the date of approval if the work has not been completed.
- 5.4 Pertinent information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed work will comply with this By-law.

6.0 FEES & REFUND

- 6.1 The fees shall be in accordance with Schedule "B" of this By-law.
- 6.2 The fees shall be paid at the application stage.
- 6.3 In the event that the fees are not paid in full at the application stage, the application will be deemed to be incomplete and will not be reviewed until such payments are made.
- 6.4 Where an application has been submitted and not reviewed for compliance and the applicant request to cancel their application, 75% of the fee may be refunded.
- 6.5 Where an application has been submitted and reviewed for compliance and the applicant has requested to cancel their application, 50% of the fees may be refunded.
- 6.6 The fees shall increase annually on the first of March of each year with the Statistics Canada Consumer Price Index (CPI) for all items in Ontario.

7.0 LOCATION OF POOL, SPA AND DECKS

- 7.1 No person shall install a pool, spa or pool deck closer than 1.5 m to a septic tank or holding tank, and not closer than 5 m to a septic leaching bed.
- 7.2 No person shall permit a pool, spa or any of its components including walkways, supporting structures, decking or concrete to encroach upon any swale or drainage easement on any lot
- 7.3 Setbacks shall be in accordance with the applicable zoning By-law.

8.0 ENCLOSURES

- 8.1 Every owner of a pool or spa shall have an adequate enclosure erected in accordance with the provisions of this section.
- 8.2 Every enclosure shall:
 - 8.2.1 Be constructed and maintained in a structurally sound condition so as to prevent access when the pool or spa is not in use;
 - 8.2.2 Be constructed in such a manner as to reasonably deter children from climbing;
 - 8.2.3 Not have rails or any other horizontal or diagonal support or exterior fixtures that might facilitate climbing;
 - 8.2.4 Not have openings that could let in a spherical object with a diameter of 100 mm (4") or more, except that chain link fences shall be limited to 50 mm (2") per link; and,
 - 8.2.5 not exceed 100 mm (4") between the ground level and pool fence.
- 8.3 In the case of an in-ground pool, the enclosure shall be at least 1.52 m (60") in height.
- 8.4 In the case of an above-ground pool, where the walls of the pool are less than 1.22 m (48") high above the finished grade for a distance of at least 610 mm (24") from the wall:
 - 8.4.1 The enclosure shall be at least 1.22 m (48") in height; or,
 - 8.4.2 The walls of the pool can be extended with an approved manufactured fence for a total height of at least 1.22 m (48") above the grade.
- 8.5 In the case of a spa, an enclosure is not required provided that:
 - 8.5.1 The spa is covered with a rigid and locking cover that prevents access to the spa when not in use; and,
 - 8.5.2 The cover to the spa shall be locked in a manner that would make it impossible to remove except by the owner of the spa, when not in use.
- 8.6 Barbed wire or fencing energized by electrical current, sharp projections or any other dangerous characteristics shall not be used as an enclosure for a pool or spa.
- 8.7 The enclosure must be situated at a distance of at least 1.22 m (48") from the pool unless otherwise approved by the Chief Building Official.

8.8 No enclosure shall be located closer to 1.22 m (48") to any condition that facilitates the climbing of the enclosure unless alternative measures are implemented to provide an equivalent level of safety.

8.9 A hedge or bush shall not be considered to be an enclosure, or part thereof.

9.0 MAINTENANCE & STORAGE

9.1 Every person shall maintain every part of an outdoor swimming pool enclosure in a structurally sound and upright condition to reasonably deter children from climbing through, over or under to gain access to the enclosed area.

9.2 No person shall place or store materials against the outside of a swimming pool enclosure which could facilitate climbing through or over to gain access to the enclosed area.

10.0 GATES

10.1 Any openings in an enclosure shall be protected by a gate.

10.2 Any exterior accesses in an enclosure leading to a terrace, patio, steps or deck adjoining a swimming pool or spa shall be protected by a gate.

10.3 Gates in an enclosure shall:

10.3.1 Provide protection equivalent to the enclosure;

10.3.2 Be at least the same height as the enclosure;

10.3.3 Be equipped with a self-closing and self-latching device, and a lock at the upper inside of the gate. The device must be installed at not less than 1.22 m (48") in height proportionate to the finished ground level or adjacent floor or step;

10.3.4 Be locked except when the enclosed area is in use and under competent supervision; and,

10.3.5 Be of similar construction as that of the pool enclosure.

10.4 No person shall construct or maintain a two door gate access without one of the two gates having a self-closing device and a self-latching device. The door of this double gate access without a self-closing device and a self-latching device must have a device permanently affixed to the ground or other non-movable object that prevents access through this gate without lifting or removing this device and then releasing the latch.

10.5 Except as provided in subsection 10.6, there shall be no space greater than 100 mm (4") where the gate meets the ground or any other surface.

10.6 Where an above-ground pool contains a ladder as the only means of access, it will be permitted provided the following requirements are met:

10.6.1 The ladder and gate are manufactured and designed for above-ground pools;

10.6.2 The ladder is an A-frame design;

10.6.3 The ladder can be enclosed by a cover that is lockable;

10.6.4 The cover provides the same protection as provided for in section 8.4; and,

10.6.5 Except for the lowest step located directly on the ground, no steps are exposed.

- 10.7 No person shall have the wall of an attached or detached accessory building as part of the required swimming pool enclosure unless the door or entrance in that wall has a self-closing door equipped with a self-latching device (ie. lockset) which shall be locked when the pool is not in use and under competent supervision.

11.0 POOL EQUIPMENT

- 11.1 No person shall install pool's pumping, filtration or heating equipment:
- 11.1.1 Less than 1.2 m (48") from an interior side yard lot line or from a rear yard lot line, as defined in the applicable Zoning By-law;
 - 11.1.2 Less than 3.5 m (12 ft) from an exterior side yard lot line, as defined in the applicable Zoning By-law;
 - 11.1.3 In a front yard, as defined in the applicable Zoning By-law;
 - 11.1.4 Less than 1.2 m (48") from the pool, unless it is installed under a deck adjacent to the pool or located within the pool enclosure; and,
 - 11.1.5 In such a manner so as to facilitate climbing to access the pool.
- 11.2 When the pool's equipment is located within 10 meters (33 ft) of a neighbouring habitable dwelling:
- 11.2.1 No person shall fail to enclose the equipment to reduce or divert noise away from such habitable dwelling.

12.0 DECKS

- 12.1 Any deck or platform that is part of an enclosure shall:
- 12.1.1 Have a guard and handrail that meet the minimum height requirements of the Ontario Building Code;
 - 12.1.2 Be designed in such a manner so as to not create a means of climbing to access the pool or spa;
 - 12.1.3 Have no space greater than 100 mm (4") between any parts of the deck assembly; and,
 - 12.1.4 Where a new deck is being proposed and requires a building permit, associated fees and application will be required in addition to the enclosure permit.
- 12.2 Guards that meet the minimum height requirements of the Ontario Building Code, but fail to meet the minimum height requirement of the enclosure shall be made higher in order to meet the minimum standards of this By-law.

13.0 GROUND ELEVATION

- 13.1 No person shall install a pool or enclosure that alters in any way the existing or approved stormwater drainage patterns of the lot.
- 13.2 The installation of any pool or spa shall include facilities to effectively conduct backwater wash to a storm sewer, where available, or a drainage ditch, in such a manner so as to prevent damage to adjacent properties.

14.0 NOTICE

- 14.1 Where an enclosure is not erected or maintained in accordance with any provision of this By-law, a notice shall be sent by registered mail or by hand

to the owner of the land on which the pool or spa is located at their last known address, requiring them to make the enclosure conform to the requirements of this By-law and shall specify the time allowed for compliance.

14.2 If there is evidence that the person in possession of the property is not the registered property owner, notice shall be served on both the registered property owner and the person in possession of the property.

14.3 Where notice has been sent by the Township pursuant to subsections 14.1 and 14.2, of this By-law and the requirements of the notice have not been complied with, the Township may, in addition to issuing set fines, cause the work to be done, and may recover the expense of such work and administration fees by action or in a like manner as municipal taxes.

14.4 Every person shall comply with a notice immediately.

15.0 ENFORCEMENT

15.1 This By-law shall be enforced by the Chief Building Official.

15.2 An Officer may enter upon land, at any reasonable time, for the purpose of carrying out an inspection to determine whether any of the following are being complied with:

15.2.1 The provisions of this By-law;

15.2.2 A notice sent pursuant to this By-law; or,

15.2.3 An order made under section 431 of the *Municipal Act, S.O. 2001, c25*, as amended.

15.3 The Township, its employees, Officers and agents may enter onto the land, at any reasonable time, for the purpose of carrying out the work described in subsection 14.3.

15.4 No person shall hinder, obstruct, or attempt to hinder or obstruct, an Officer in the exercise of a power or the performance of a duty.

16.0 OFFENCE

16.1 Any person who contravenes any provisions of this By-law is guilty of an offence and, upon conviction, is liable to a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, c. P.15*, as amended.

16.2 Where a person is convicted of an offence under this By-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

16.3 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law, and it is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

17.0 TRANSITION

17.1 Any pool, spa, fence or enclosure that was lawfully erected or constructed prior to the passing of this By-law, shall be deemed to be in compliance.

17.2 Any pool erected without a pool enclosure must comply with the provisions of this By-law.

18.0 REPEAL

18.1 Township of North Dundas By-law No. 25-2004 is hereby repealed in its entirety.

19.0 SCHEDULE

19.1 Schedule "A" shall form part of this By-law.

20.0 EFFECTIVE

20.1 This By-law shall come into full force and effect upon the date of passing by Council.

READ and passed in Open Council, signed and sealed this 14th day of July, 2020.

MAYOR

CLERK

Appendix "A"



PLANNING, BUILDING & ENFORCEMENT DEPARTMENT

636 St. Lawrence St, P.O. Box 489, Winchester, ON K0C 2K0

Tel: 613-774-2105 Fax: 613-774-5699 info@northdundas.com www.northdundas.com

FOR OFFICE USE ONLY
Permit No: _____

APPLICATION FOR SWIMMING POOL ENCLOSURE PERMIT

THE TOWNSHIP OF NORTH DUNDAS

- ABOVE-GROUND POOL
 IN-GROUND POOL
 SPA

CONTACT INFORMATION:

APPLICANT NAME:	
ADDRESS:	
PHONE:	EMAIL:
CONTRACTOR:	
ADDRESS:	
PHONE:	EMAIL:

INSTALLATION DETAILS:

CIVIC ADDRESS:				
ESTIMATED COST OF PROJECT: \$				
LOT:	CONCESSION:	ROLL #:		
YARD SETBACK (m):	FRONT:	SIDE 1:	SIDE 2:	REAR:
SIZE / DIAMETER OF POOL:				
Water Supply:	Municipal <input type="checkbox"/>	Well <input type="checkbox"/>	Sewers:	Municipal <input type="checkbox"/> Septic <input type="checkbox"/>
Description of Project & Projected Date of Installation :				

I/We hereby apply to The Corporation of the Township of North Dundas for permission to install a swimming pool and enclosure, as described above, and do hereby agree to conform to the Township's conditions, standards, and specifications governing pools and enclosures.

I DECLARE THAT I UNDERSTAND THE CONTENTS OF THE ATTACHED COPY OF BY-LAW No. **-2019:

NAME: _____

SIGNATURE: _____ DATE: _____

FOR OFFICE USE ONLY

CONDITIONS:

APPROVAL: _____ DATE: _____
 Jacob Forget, CBCO

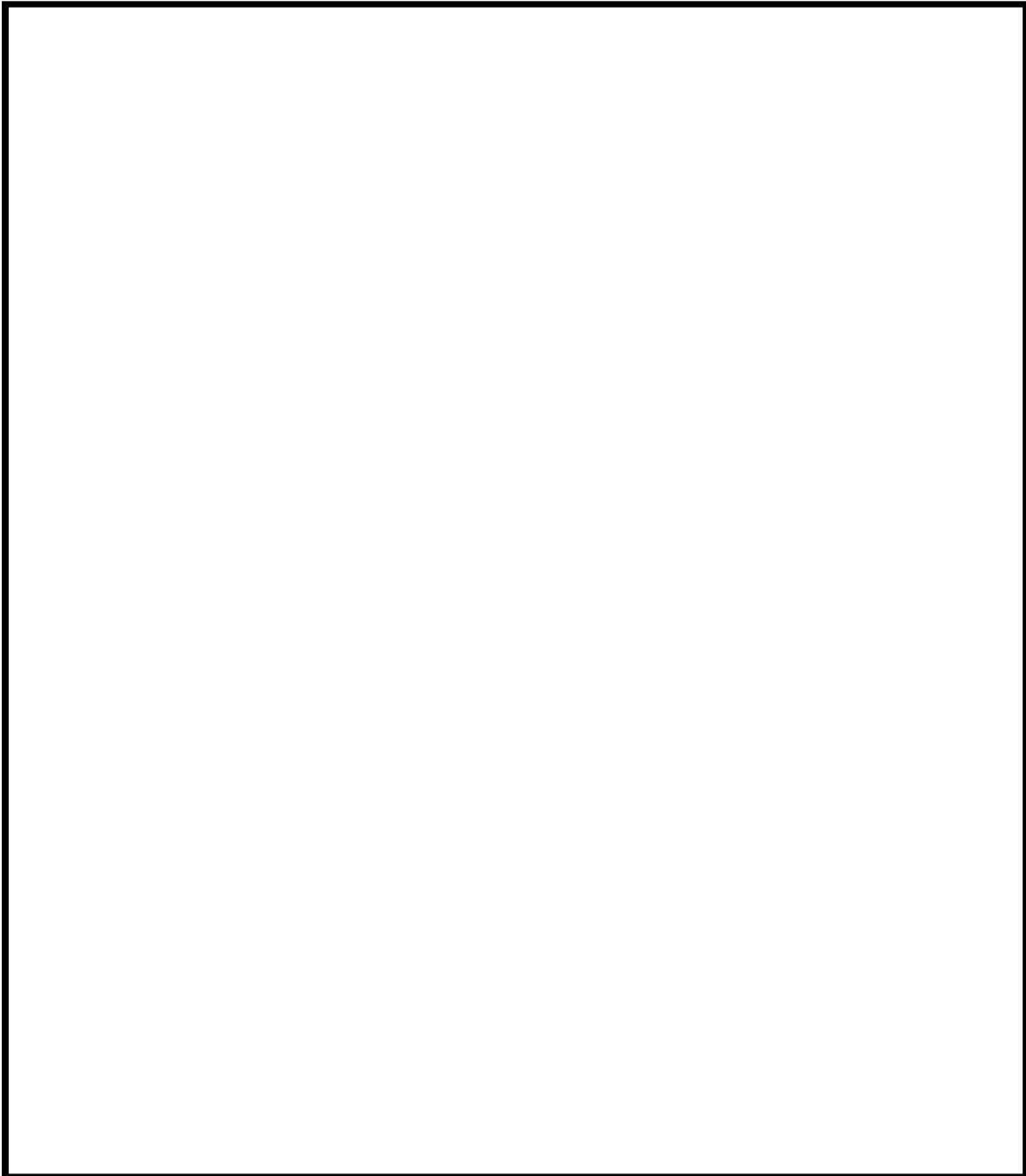
***AN INSPECTION MUST BE CONDUCTED PRIOR TO FILLING THE POOL WITH WATER
 Please contact our office at least two (2) days in advance to schedule inspection***

Appendix "A" (cont'd)

SWIMMING POOL ENCLOSURE PERMIT APPLICATION SITE PLAN

Show the following information on the drawings where applicable:

- Location of Dwelling
- Location of Pool or Spa
- Location, Type, and Height of the Fence
- Height of Pool Walls (for above-ground)
- Location of pool equipment
- Location of deck
- All setback measurements from:
 - o Property lines
 - o Dwelling
 - o Accessory buildings
 - o Septic holding tank
 - o Septic distribution piping and leaching chambers
 - o Water bodies or watercourse
 - o Easements



Schedule "B"

Fees

1. The fee for a pool enclosure permit shall be based on the following types of installation:

- | | |
|---|----------|
| a) Spa | \$50.00 |
| b) Pool Enclosure | \$100.00 |
| c) Pool Enclosure (where a building permit is obtained for a deck serving the pool) | \$50.00 |
| d) Enclosure Replacement | \$80.00 |

2. Re-inspection fees are to be calculated in accordance with the Building By-law.

3. Re-inspection fees are subject to the discretion of the Chief Building Official.