

MUNICIPALITY OF NORTH MIDDLESEX

BY-LAW #57 OF 2006

A By-law to require the owners of privately-owned outdoor swimming pools to erect and maintain fences and gates of such swimming pools.

WHEREAS SECTION 210 (30) OF THE MUNICIPAL ACT, R.S.O. 1990, CHAPTER M. 45, as amended, authorize municipal councils to pass by-laws for requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates, for prohibiting persons from placing water in privately-owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit certifying approval of such plans without which permit no privately-owned outdoor swimming pool may be excavated for or erected and for authorizing the refusal of a permit for such fences or gates that if erected would be contrary to the provisions of any by-law of the municipality.

THEREFORE the Municipal Council of the Municipality of North Middlesex enacts as a By-Law as follows.

TITLE:

This By-law may be referred to as the "Swimming Pool By-Law."

1. DEFINITIONS:

1. a) In this by-law, "Privately-owned Outdoor Swimming Pool" means any "swimming pool" located on private property under control of the owner or occupant, the use of which is limited to swimming, diving, wading, or recreational bathing by members of their family and or visitors.
- b) "Swimming Pool" shall mean any structure, basin, chamber or tank, hard sided or soft sided, permanent and/or seasonal, and shall include the item commonly known as "hot tub", containing, or capable of containing, an artificial body of water with the intent being for swimming, diving, wading, or recreational bathing, the top of which is below or level with, or extends above the surface of the surrounding ground (grade).
- c) "Swimming Pool Enclosure" - shall mean, a hard top enclosure cover, (hot tub cover), or a fence or wall with a minimum height of (4) four feet (1.219 metres) or combination thereof including any doors or gates surrounding a "swimming pool" and restricting access to "swimming pools";

- c) The type of fence commonly known as "snow fencing", "lattice" or "hedge" fencing shall not be permitted as a permanent fence.
 - d) A boundary fence which complies with the provisions of this section shall be deemed a sufficient fence.
 - e) Every fence shall be so constructed that it cannot be used in a manner which would facilitate climbing similar to a ladder.
 - f) Every fence shall be constructed so as to prevent entrance from the pool area by crawling under said fence.
 - g) Every fence shall be so constructed so as to have as the only means of entry by gates or doors.
 - h) All gates or doors shall be equipped with a self-closing-latching device on the pool side at the top of the gate with the intent that small children "unsupervised" can not gain entry to the pool and that all gates or doors will remain securely closed and/or locked when not in actual use.
 - i) All hard covers shall be equipped with a latching/locking device with the intent that small children "unsupervised" can not gain entry to the "hot tub"/"pool" and that the hard top will remain securely closed and/or locked when the "hot tub"/"pool" is not in actual use.
 - j) Above ground pools shall conform to the requirements as previously set out in this by-law except that the exterior portion of the pool may be considered as part of the required fence. If additional protection is required to obtain the required height, it can be applied to the top of the pool as an integral part of the pool.
 - k) The required swimming pool enclosure shall not be located closer than 120 cm (4 feet) to any condition which would facilitate the climbing of the swimming pool enclosure fence to gain entry to the swimming pool.
 - l) Stairs will be permitted as an entrance into an above-ground pool provided that the stairs shall be removed or, kept in a vertical position and shall be locked at all times when the pool is not being attended by a responsible person.
 - m) All hard covers for "hot tubs" shall be as supplied by the manufacturer or any construction which will yield an equivalent or greater degree of safety to that specified by the manufacturer, may be approved by the Chief Building Official or Municipal By-law Enforcement Officer.
2. That the provisions of this by-law shall not apply to agricultural use/or ornamental ponds or natural bodies of water.
 3. That the provisions of this by-law shall apply to all swimming pools.
 4. The Building Inspector and/or Municipal By-Law Enforcement Officer or such person as designated by the Municipality of North Middlesex is hereby empowered to enforce all regulations included in this by-law.

- f) That the owner of any outdoor swimming pool, which requires a "swimming pool enclosure", and which is capable of containing water greater than 24 inches in depth, and which said swimming pool has not been fenced in with accordance with the provisions of this By-law shall upon demand made either orally or in writing by the Building Inspector and/or Municipal By-Law Enforcement Officer forthwith drain the said pool. If the said pool has not been drained within twelve hours after the delivery of said notice, the servants or agents of the Municipality of North Middlesex may enter upon the said lands and drain the said pool.

3. PERMITS AND INSPECTIONS:

1. a) No person shall excavate for, erect or construct a swimming pool which requires a permit, without first obtaining a permit to do so from the Chief Building Official.
- b) No person shall fill a swimming pool which requires a "swimming pool enclosure, with water or allow water to remain therein unless the swimming pool enclosure prescribed by this By-law has been approved by the Inspector.
- c) An application for a permit to construct a swimming pool enclosure, around, or over, a swimming pool shall be submitted to the Chief Building Official together with suitable plans showing the location of the proposed swimming pool and the swimming pool enclosure, along with the fees prescribed in the building by-law for the Municipality of North Middlesex.
- d) No person shall install any overhead or underground electrical wiring related to any privately owned outdoor swimming pool without first obtaining the written approval of the hydro provider having jurisdiction for such wiring, and obtain an inspection there of, upon completion of installation.

4. FENCES - "SWIMMING POOL ENCLOSURE":

1. a) A fence or its equivalent, or the sides forming part of a swimming pool enclosure shall be of a minimum height of (4) four feet (1.219 metres) from grade level, and constructed of a minimum material, being;
- i. chain-link construction;
 - ii. vertical board construction;
 - iii. vertical wrought iron;
 - iv. vertical metal panels,
 - v. exterior sides of a pool;
- b) A fence of any other construction which will yield an equivalent or greater degree of safety to that specified may be approved by the Chief Building Official or Municipal By-Law Enforcement Officer.

- 1) whose top level is below or level with the surrounding ground (grade)
 - 2) contain water of a depth of (24) twenty-four inches, (0.61 metres), or greater
 - 3) no "swimming pool enclosure" need be provided for above ground pools, soft sided or hard sided, when the sides of the pool are (4) four foot (1.219 metres) above surrounding grade or when any above ground pool is located (500) five hundred feet, (152.4 metres) or greater from any abutting neighbours residence.
- d) "Owner or Occupant" - shall mean any person who owns or occupies land upon which there is wholly or partly situated a privately-owned swimming pool.
 - e) "Inspector" shall mean the Chief Building Official or the Municipal By-law Enforcement Officer or such person as designated by the Municipality of North Middlesex

2. GENERAL:

1.
 - a) That any "swimming pool", whose top level is below or level with the surrounding ground (grade) shall be fenced or covered with a hard cover (sunken hot tub), in accordance with this by-law.
 - b) That fences or hard covers forming part of the required swimming pool enclosure shall contain no barbed wire, electrical wiring, sharp projections or any other dangerous characteristics that may injure any person on either side of said fence or when removing or installing the hard cover.
 - c) That the provisions of this By-law shall be applicable to all privately-owned swimming pools constructed in the Municipality of North Middlesex after the date of final passing of this By-law.
 - d) That all setbacks as per the provisions of existing Zoning By-laws (as amended), shall be applicable to determine pool and or enclosure fence locations.
 - e) That no new outdoor swimming pool shall be filled with water until the said pool has been protected by a hard cover or a temporary fence, said temporary fence to be replaced with a permanent fence in accordance with the provisions of this by-law within six months (182 calendar days) of the issuance of a swimming pool permit for a permanent in ground or a permanent above ground, hard sided pool.. Unless the pool is drained at any time that it is not in use and/or supervised.

5. PENALTIES:

1. That the owner of every privately-owned swimming pool in the Municipality North Middlesex who neglects or refuses to enclose and or fence the said privately-owned swimming pool in accordance with the terms of this By-law, shall be guilty of an offence and upon conviction thereof, shall be liable to a penalty not exceeding \$1,000.00 exclusive of costs, with each day that the breach continues being considered a new offence. Such penalty (s) and costs to be recoverable under the provisions of the Provincial Offences Act.

6. REPEAL:

- a. By-laws No. are hereby repealed and rescinded.

Ailsa Craig	#12	of 1996
East Williams	#26	of 1981
McGillivray	#16	of 1976
Parkhill	#94 - P - 8	
West Williams	#10	of 1974
North Middlesex	# 55	of 2002

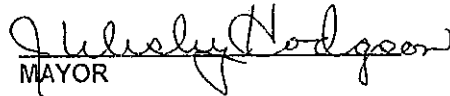
7. EFFECTIVE DATE:

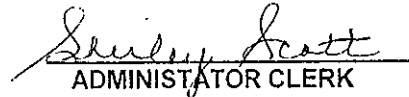
- a) That this By-law #57 of 2006 comes into full force and effect on this date of its final passing.
- b) That in respect of all privately-owned outdoor swimming pools constructed after the date of passage of this by-law.

READ A FIRST TIME THIS 21st DAY OF AUGUST 2006 A.D

READ A SECOND TIME THIS 21st DAY OF AUGUST 2006 A.D.

READ A THIRD TIME AND FINALLY PASSED THIS 21st DAY OF AUGUST 2006 A.D.


MAYOR


ADMINISTRATOR CLERK