

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW No. 2017- 48

(CONSOLIDATED as amended by By-law 2021-93, 2022-34)

**A BY-LAW TO REGULATE PRIVATE OUTDOOR
SWIMMING POOLS AND SWIMMING POOL
ENCLOSURES IN THE TOWNSHIP OF WEST
LINCOLN**

WHEREAS subsection 8(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS subsection 11(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

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

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may pass by-laws imposing fees or charges on any person for services or activities provided or done by the municipality or done on behalf of it;

AND WHEREAS subsection 436(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS section 444 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, provides that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS the Council of the Township of West Lincoln deems it desirable for the protection of the public to enact a by-law to regulate private outdoor swimming pools;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN ENACTS AS FOLLOWS:

SECTION 1 GENERAL PROVISIONS

1.1 SHORT TITLE

1.1.1 This by-law shall be known as the "Swimming Pool By-law".

1.2 DEFINITIONS

1.2.1 For the purpose of this by-law:

- (1) “*Chief Building Official*” means the *Chief Building Official* appointed by Council under the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended, or the *person* to act in that capacity in his or her absence;
- (2) “*construct*” means to do anything in the erection, installation, extension or material alteration or repair of a *swimming pool* and includes excavation activities and the installation of a *swimming pool* fabricated or moved from elsewhere and “*construction*” has a corresponding meaning;
- (3) “*exterior face*” means, when used in conjunction with a *swimming pool enclosure*, the side of the enclosure from which access to the *swimming pool* is to be prevented;
- (4) “*fence*” means and includes a railing, wall, line of posts, wire, gate, boards, pickets, or other similar material, used to enclose or divide in whole or in part a yard or other land, or to establish a property boundary, or to provide privacy;
- (5) “*gate*” means a barrier swinging on a vertical axis;
- (6) “*ground level*” means the highest level of grade at any point around the exterior of the *swimming pool* within 1060mm [3’-6”] measured horizontally from the wall of the outdoor *swimming pool*;
- (7) “*hot tub*” means a hydro-massage pool containing an artificial body of water that is intended primarily for the therapeutic or recreational use of a single dwelling unit that is not drained, cleaned or refilled before use by each individual and that utilizes hydro-jet circulation, air induction bubbles, current flow or a combination of them over the majority of the pool area, but does not include a *swimming pool*;
- (8) “*Officer*” means an *Enforcement Officer*, a Building Inspector, a *Chief Building Official*, or other *person* appointed or employed by the *Township* for the enforcement of by-laws;
- (9) “*owner*” means a *person* or corporation who legally owns or controls the *property* in question;
- (10) “*permit*” except where the context requires otherwise, means authorization issued by the *Chief Building Official* certifying approval of plans for the *construction* of a *swimming pool* and/or *swimming pool enclosure* required by this by-law;

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- (11) “*person*” means and includes an individual, firm, corporation, association or partnership and includes an occupant or an *owner* of a *property*;
- (12) “*property*” means any grounds, *yard* or vacant lands;
- (13) “*swimming pool*” means any artificial body of water located out of doors, and capable of holding a depth of 610mm [2’-0”] of water at any given section but does not include:
- (a) a pond which is maintained for ornamental purposes only;
 - (b) a pond which is used only for agricultural, horticultural or industrial purposes or is located in an agricultural *zone*;
 - (c) a pond which is used as a reservoir for firefighting;
 - (d) natural occurring streams, lakes, swamps or other natural bodies of water; or
 - (e) a *swimming pool* which is subject to the regulations of the Ontario Building Code established through the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended;
- (14) “*swimming pool, above ground*” means any *swimming pool*, other than a *seasonal swimming pool*, that has a portion of the pool wall *above ground level*;
- (15) “*swimming pool area*” means a *swimming pool* and includes any surrounding platforms, walkways, play areas and landscape areas within the *swimming pool enclosure*;
- (16) “*swimming pool enclosure*” means a permanent *fence*, wall or structure or a combination thereof, together with any *gates* or entrances, which completely surround the *swimming pool*;
- (17) “*swimming pool, in ground*” means any *swimming pool* that is *constructed* with its pool walls more than 90% below *ground level*;
- (18) “*swimming pool, seasonal*” means any *swimming pool* which is intended to be removed and stored during the winter months and / or when not in use;
- (19) “*temporary enclosure*” means an enclosure used temporarily for the purpose of enclosing a *swimming pool* in the course of *construction* in order to effectively prevent or restrict access thereto by unauthorized *persons*, and to prevent any accident or injury to any *person* in or on the *property*;

- (20) “*Township*” means The Corporation of the Township of West Lincoln or the geographical area of the municipality, as the context requires;

1.3 INTERPRETATION

- 1.3.1 In this by-law statutory references are to Statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.
- 1.3.2 This by-law shall be read with all changes of gender and number required by the context or circumstances.
- 1.3.3 For the purpose of this by-law:
- (1) “kg” means kilograms;
 - (2) “mm” means millimetres;
 - (3) ‘ means feet (i.e. 5’ = 5 feet);
 - (4) “ means inches (i.e. 5” = 5 inches);
 - (5) values contained in [] denote imperial equivalents to the prescribed metric value.

1.4 APPLICATION

- 1.4.1 The provisions of this by-law shall regulate the enclosure of privately owned outdoor *swimming pools* and *hot tubs constructed on property* within the boundaries of the *Township*.
- 1.4.2 The provisions of this by-law, in no way exempt a *swimming pool* or *hot tub* from complying with any applicable Federal or Provincial statutes, and regulations thereunder, or any other regional or municipal by-law, including the requirement for a permit.
- 1.4.3 The provisions of this by-law shall apply equally to all types of *swimming pools* including *above ground, in ground* and *seasonal swimming pools* unless otherwise stipulated in this by-law.
- 1.4.4 No *person* shall be required to obtain a *permit* for the installation of a *hot tub* nor shall the provisions set out in section 4 of this by-law for Enclosure Construction and Maintenance be applicable provided the *hot tub* is equipped with a substantial cover, capable of holding 90.72kg [200 pounds], which is fitted to the structure and locked to prevent access when the structure is not in use.

SECTION 2 GENERAL PROVISIONS

2.1 PERMITS

- 2.1.1 No *person* shall *construct* or cause or *permit construction* of any *swimming pool* without first obtaining a *permit* from the *Chief Building Official*.
- 2.1.2 An application for *permit* shall be on forms provided by the *Township* for such purposes and shall include the following information:
- (1) the location of the *property*;
 - (2) a plot plan or plot plans of the lot showing the following information:
 - (a) the location of the *swimming pool*;
 - (b) the location of the *swimming pool enclosure* including the location of any *gates* and / or entrances;
 - (c) the location of any associated *swimming pool* equipment such as, but not limited to, pumps, filters and heating equipment;
 - (d) dimensions from the *swimming pool* and any associated equipment to all *lot lines* and all other buildings or structures on the lot;
 - (e) where the application being made is for the installation of an *in ground swimming pool* on a *property* having an area of less than 0.4 ha [0.988 acres], in addition to the items identified above, the application shall be accompanied by a Lot Grading Plan bearing the signature and seal of a practicing Engineer, Landscape Architect, Architect or Ontario Land Surveyor, who certifies thereon that the drainage scheme depicted by the plan is designed to ensure that water will not accumulate at or near the building and will not adversely affect adjacent properties; and
 - (f) where the application being made is for the installation of a *swimming pool* on a *property* that is serviced with a private sewage system, the location and size of the private sewage system, including the bed, tanks and all other related equipment shall be shown on the required plot plan along with dimensions between the *swimming pool* and the private sewage system components.
 - (3) a plan or plans illustrating the complete details of the *swimming pool enclosure* including
 - (a) type of *construction*;

- (b) materials; and
- (c) height.

- 2.1.3 The issuance of a *permit* for any application regarding the *construction* of a *swimming pool* shall be denied if the *construction* of the *swimming pool* and/or the *swimming pool enclosure* would be contrary to the provisions of any By-law of the *Township*, or any other applicable law or regulation.
- 2.1.4 Any deck, structure or accessory building including an enclosure for *swimming pool* equipment, change house and storage buildings are not the subject of this by-law and thus not regulated by this by-law and shall be subject to any and all applicable municipal or regional by-laws, or other applicable laws and regulations.
- 2.1.5 No *permit* for the *construction* of a *swimming pool* shall be issued unless all applicable fees and deposits as required by this by-law have been paid in full.
- 2.1.6 Once a *permit* has been issued for the *construction* of a *seasonal swimming pool*, the initial *permit* shall be sufficient to satisfy the requirements of article 2.1.1 for each subsequent *construction* of the same *seasonal swimming pool*.

2.2 INSPECTIONS

- 2.2.1 No *person* shall place water, or cause or permit water to be placed, in a *swimming pool*, unless
- (1) an *Officer* has conducted a final inspection; and
 - (2) an *Officer* has approved the installation of the *swimming pool*.
- 2.2.2 No *person* shall place water, or cause or permit water to be placed, in a *seasonal swimming pool*, unless
- (3) an *Officer* has conducted a final inspection; and
 - (4) an *Officer* has approved the location of the *seasonal swimming pool* and the required *swimming pool enclosure*.
- 2.2.3 The installation inspection required by article 2.2.2 shall be required for the initial *construction* of the *seasonal swimming pool* only. It shall be the responsibility of the *owner* to ensure that the *seasonal swimming pool* is erected in conformance to the applicable requirements of this by-law for all subsequent installations.

2.3 PERMIT FEES AND DEPOSITS

- 2.3.1 Any fee or deposit required by or described in this by-law shall be as prescribed in Schedule 'A' of this by-law for the various types of *permits* and all other applicable fees and deposits.
- 2.3.2 Any person who commences *construction* or causes or permits the *construction* of a *swimming pool* before receiving a *permit* to commence such work, shall in addition to any other penalty under the applicable law or this by-law pay an additional fee equal to 100% of the amount calculated as the full *permit* fee for the entire project, in order to compensate the *Township* for the additional work incurred by such early commencement of work.

SECTION 3 SWIMMING POOL CONSTRUCTION

3.1 PLUMBING

- 3.1.1 Any plumbing connections made between the *swimming pool* or *hot tub* and any potable water supply shall be equipped with a back flow prevention device.
- 3.1.2 No person shall direct, or cause or permit, overflow or drainage discharge from a *swimming pool* or *hot tub* to be discharged:
- (1) directly into a storm sewer, natural drainage course, stream, lake, swamp or other natural body of water;
 - (2) onto abutting properties, open lands, *Township property*; or
 - (3) into a sanitary sewer.

3.2 ELECTRICAL

- 3.2.1 All electrical works conducted in association with the installation of the *swimming pool* or *hot tub* shall be installed in accordance with the applicable electrical codes and standards.
- 3.2.2 Any applicable permits and inspections required as a result of the provisions of the article 3.2.1 are the sole responsibility of the *owner*.
- 3.2.3 All lighting fixtures or standards installed in conjunction with the *swimming pool* or *hot tub* shall be arranged, designed and installed so that any light from the fixtures or standards is directed downward and deflected away from any adjacent lots and abutting highways.

SECTION 4 ENCLOSURE CONSTRUCTION AND MAINTENANCE

4.1 GENERAL ENCLOSURE REQUIREMENTS

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- 4.1.1 No *person* shall place water, or cause or permit water to be placed, in a *swimming pool*, unless a *swimming pool enclosure* has been *constructed* or otherwise provided in accordance with the provisions of this by-law.
- 4.1.2 The required *swimming pool enclosure* shall have a height of not less than 1500mm [4'-11"] in height, as measured from ground level at the *exterior face* of the enclosure.
- 4.1.3 The required *swimming pool enclosure* shall be *constructed* and maintained to provide an opening between the *ground level* and the bottom of the *swimming pool enclosure* no greater than:
- (1) 50mm [2"] where the ground beneath and adjacent to the *swimming pool enclosure* is primarily a soft surface such as turf grass or bare earth; and/or
 - (2) 100mm [4"] where the ground beneath and adjacent to the *swimming pool enclosure* is primarily a hard surface such as concrete or asphalt.
- 4.1.4 Every *swimming pool enclosure* shall be *constructed* in accordance with the provisions of subsections 4.2 and 4.3 of this by-law, except as may otherwise be provided in this by-law.
- 4.1.5 An accessory attached or otherwise integrally *constructed* as a component of the *swimming pool* may serve to satisfy the requirements for a *swimming pool enclosure* provided the combination of the pool wall and the accessory satisfy all requirements for a *swimming pool enclosure*.
- 4.1.6 Notwithstanding the provisions of article 4.1.1, where the outside wall of *swimming pool* has a height of not less than 1500mm [4'-11"] in height, as measured from *ground level* at all points on the perimeter of such wall, a *swimming pool enclosure* shall not be required provided that any steps, ladder or other means of entry to the *swimming pool* are protected by a compliant *swimming pool enclosure*.
- 4.1.7 The wall of a building may be considered to form a part of a *swimming pool enclosure* provided that:
- (1) the wall is at least 1500mm [4'-11"] in height, as measured from *ground level* at the *exterior face* of the wall;
 - (2) where any window opening, other than a window located in a dwelling unit, occurs within the area of the wall forming part of the *swimming pool enclosure*, such windows are to be kept securely locked when the pool is not under immediate competent supervision; and

- (3) where any door providing access directly to a *swimming pool area* occurs within the area of the wall forming part of the *swimming pool enclosure*, such doors shall satisfy the provisions of article 4.3.

4.1.8 All *swimming pool enclosures* shall be designed and *constructed* in a manner whereby no member, attachment or opening will facilitate climbing.

4.2 FENCES

4.2.1 A *fence* which forms a *swimming pool enclosure*, or part thereof, shall be of chain link *construction*, wood *construction*, wrought iron or metal *construction* or a material otherwise approved by the *Chief Building Official*.

4.2.2 A *fence* of chain link *construction* shall be *constructed* with:

- (1) chain link with a wire size of not less than 12 gauge in thickness when of galvanized steel material, or with a wire size of not less than 14 gauge in thickness when of vinyl or other approved coated steel material which would form an overall thickness equivalent to 12 gauge galvanized steel wire;
- (2) chain link having a diameter of not more than 50mm [2"];
- (3) capped galvanized steel posts having a diameter of not less than 38mm [1 1/2"], spaced not more than 2400mm [7'-10 1/2"] apart, and placed at least 900mm [2'-11 1/2"] below *ground level* to support the *fence*;
- (4) galvanized steel pipe having a diameter of not less than 32mm [1 1/4"], securely fastened to the upright galvanized steel posts to serve as the top rail; and
- (5) galvanized steel tension wire of not less than 9 gauge in thickness securely fastened to the upright galvanized steel posts to serve as the bottom support.

4.2.3 A *fence* of wood *construction* shall be *constructed* with:

- (1) boards placed vertically with a thickness of not less than 16mm [5/8"];
- (2) horizontal members, including top and bottom rails, that are spaced:
 - (a) at least 900mm [2'-11 1/2"] apart, and vertical boards that are spaced no more than 100mm [4"] apart on the *exterior face* of the *fence*; or

- (b) not more than 900mm [2'-11 1/2"] apart, and vertical boards that are spaced not more than 50mm [2"] apart on the *exterior face* of the *fence*;
 - (3) supports of solid wood posts with a size not less than 89mm x 89mm [3 1/2" x 3 1/2"], or 89mm [3 1/2"] in diameter, spaced not greater than 2400mm [7'-10 1/2"] apart, and placed at least 900mm [2'-11 1/2"] below *ground level*;
 - (4) a top and bottom rail with a size not less than 38mm x 89mm [1 1/2" x 3 1/2"], where the 89mm [3 1/2"] dimension is in the vertical orientation, securely fastened to the solid wood posts; and
 - (5) all wood which will be in contact with the ground or below the *ground level* being of a species resistant to decay by moisture or treated with an approved substance to resist decay.
- 4.2.4 A *fence* of wrought iron or metal *construction* shall be *constructed* with:
- (1) sufficient strength to provide an effective *swimming pool enclosure*;
 - (2) supports of posts spaced not more than 2400m [7'-10 1/2"] apart, and placed at least 900mm [2'-11 1/2"] below *ground level*;
 - (3) horizontal members, including top and bottom rails, that are spaced:
 - (a) at least 900mm [2'-11 1/2"] apart, and vertical members that are spaced no more than 100mm [4"] apart on the *exterior face* of the *fence*; or
 - (b) not more than 900mm [2'-11 1/2"] apart, and vertical members that are spaced not more than 50mm [2"] apart on the *exterior face* of the *fence*;
- 4.2.5 Basket weave or lattice material shall not be used within the required portion of *fence* serving as a *swimming pool enclosure*.
- 4.2.6 A *fence constructed* as a *swimming pool enclosure* shall be subject to the requirements as set out in the *Township's Fence* by-law, as amended.
- 4.2.7 Any *fence constructed* as a *swimming pool enclosure*, either in whole or in part, shall be located not less than 600mm [1'-11 5/8"] from the interior wall surface of the *swimming pool*, except for an attached or integrally *constructed* accessory as permitted by article 4.1.5.

4.3 GATES AND ENTRANCES

- 4.3.1 No *person* shall allow a *gate* or entrance to remain in a condition other than closed and locked when the *swimming pool* is not under immediate competent supervision.
- 4.3.2 Every *swimming pool enclosure* shall allow access to the *swimming pool area*, other than through a dwelling, by means of at least one or more *gates* or entrances.
- 4.3.3 *Gates* or entrances included as component of the *swimming pool enclosure* shall be:
- (1) of a *construction* and height equivalent or greater to that of the *swimming pool enclosure* to which it is a part of;
 - (2) supported by substantial hinges;
 - (3) equipped with self-closing hardware capable of placing the *gate* or entrance in a closed and latched position; and
 - (4) equipped with self-latching hardware mounted on the pool side of the *gate* or entrance or integral within the frame of the *gate* or entrance.
- 4.3.4 In addition to the provisions of articles 4.3.1, 4.3.2 and 4.3.3, any door providing access directly to a *swimming pool area* shall be equipped with hardware at a height of not less than 1.5m [4'-11"], mounted on either side of the door, that will deactivate the use of the door in times when the *swimming pool* is not under immediate competent supervision.

4.4 TEMPORARY ENCLOSURES

- 4.4.1 Every *owner* shall, for the duration of *construction* of the *swimming pool*, provide a *temporary enclosure* around the *swimming pool area* as described herein, unless a *swimming pool enclosure* constructed in accordance with the provisions of this by-law has otherwise been provided.
- 4.4.2 A *temporary enclosure* shall be *constructed* of:
- (1) a plastic mesh *fence* having mesh openings not greater than 50mm [2"] and a height of at least 1200mm [3' – 11 1/4"] supported by steel T-bar posts located a maximum of 2400mm [7'-10 1/2"] apart and with a 9 gauge galvanized steel wire located at the top and bottom of such *fence*; or
 - (2) a material that will provide an equivalent or greater degree of safety referred to in sentence 4.4.2(1) above, and which has been approved by the *Chief Building Official*.

4.5 MAINTENANCE

- 4.5.1 Every *owner* of lands on which a *swimming pool* has been *constructed* shall maintain a *swimming pool enclosure* around the *swimming pool area* to the minimum standards as set out in this by-law.
- 4.5.2 Every *temporary enclosure* shall be maintained in such a manner and to such an extent as to ensure, at all times, maximum security and protection against entry to the *swimming pool* by unauthorized *persons*.
- 4.5.3 No *person* shall place water, or cause or permit water to be placed, in a *swimming pool*, unless the required *swimming pool enclosure* is maintained in accordance with the provisions of this by-law.
- 4.5.4 No *person* shall keep a *swimming pool* or *hot tub* unless it is maintained in good repair and working condition.
- 4.5.5 No *person* shall cause or permit a *swimming pool* or *hot tub* to contain standing water for a period in excess of 3 consecutive days.

SECTION 5 ADMINISTRATION AND ENFORCEMENT

5.1 ENFORCEMENT

- 5.1.1 An *Officer* may enter upon any property at any reasonable time for the purpose of administering or enforcing this by-law.
- 5.1.2 Where an *owner* fails to erect or maintain the *swimming pool enclosure* or *temporary enclosure*, including *gates* and entrances, in accordance with the provisions of this by-law, or causes or permits water to either remain or be placed in a *swimming pool* contrary to the provisions of this by-law after the specified date for compliance set out in an Order of non-conformity issued under section 5.2 below, an *Officer* may, with such assistance by others as may be required, immediately, at the expense of the *owner*:
- (1) erect a *swimming pool enclosure* or *temporary enclosure*;
 - (2) repair the *swimming pool enclosure* or *temporary enclosure*; or
 - (3) remove all water from the *swimming pool* until the required *swimming pool enclosure* is erected or maintained in accordance with the provisions of this by-law.
- 5.1.3 Where it is required for the *Township* to have work conducted to remedy a non-conformity as described in article 5.1.2, the *Township* may charge an administration fee of 15% of such expense with a minimum fee of \$125.00 which shall be added to the expense for the work.
- 5.1.4 The *Township* may recover any expenses incurred in undertaking the work described in article 5.1.2, including the administration fee as prescribed in

article 5.1.3, by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

5.2 ORDER FOR NON-CONFORMITY

- 5.2.1 An *Officer* who, upon inspection, finds a condition or conditions that do not conform with the standards as prescribed by this by-law, may issue an order to the *owner* and such other *persons* as is deemed appropriate, identifying the non-conforming condition or conditions and directing the non-conforming condition or conditions be corrected.
- 5.2.2 An order as described in article 5.2.1 shall be served upon the *owner* and any other *person* to whom the order is directed by way of:
- (1) personal service;
 - (2) registered mail to the last known address known to the *Township* for that *person* which shall be considered to be served five business days after the date the order was mailed; or
 - (3) posting the order in a conspicuous place upon the *property* upon which the instance of non-conformity was found by the *Officer*.

5.3 PENALTIES

- 5.3.1 Every *person* who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to fine of not more than \$5000.
- 5.3.2 No *person* shall hinder or obstruct an *Officer*, from carrying out an inspection of a *property* for the purpose of confirming compliance with the provisions of this by-law or for compliance with an order issued for the *property*.
- 5.3.3 No *person* shall hinder or obstruct an *Officer*, or their agent or agents, from entering onto lands to carrying out remedial action on a *property* whereby an order has been issued and compliance has not been achieved by the stipulated compliance date.
- 5.3.4 Any person who contravenes any provision of this By-law and each Owner, when given a Penalty Notice in accordance with the Township's Administrative (Non-Parking) Penalty By-law, is liable to pay the Township an administrative penalty in the amount specified in the applicable Schedule of the Township's Administrative (Non-Parking) Penalty By-law, as amended from time to time.
(As amended by By-law 2021-93)

5.4 VALIDITY

- 5.4.1 Should a court of competent jurisdiction declare a portion or the whole of any provision of this by-law to be invalid or of no force and effect, the

provision or part is deemed severable from this by-law, and it is the intention of the Council of the *Township* that the remainder survive and be applied and enforced in accordance with its terms and the extent possible under the law so as to protect the public.

5.4.2 Where a provision of this by-law conflicts with the provision of another by-law, Act or regulation in force within the *Township*, the provisions that establish the greater standard to protect the health and safety of all *persons* shall prevail.

5.4.3 Notwithstanding the provisions of article 5.4.2, where provisions of this by-law conflict with the provisions of the *Township's Fence By-law*, the provisions of this by-law shall prevail as they relate to the provision of a required *swimming pool enclosure*, unless otherwise provided.

5.5 TRANSITION RULES

5.5.1 After the date of passing of this by-law, those by-laws identified under subsection 6.1 shall apply only to those applications for *permit* which were submitted prior to the date of passing of this by-law, and then only to such properties until such time as the work permitted under any issued *permit* for those applications have been completed.

SECTION 6 ENACTMENT AND REPEAL

6.1 BY-LAWS TO BE REPEALED

6.1.1 By-law No. 99-34 be and is hereby repealed.

6.2 DATE OF ENACTMENT

6.2.1 This by-law shall come into force and effect on May 1st, 2017.

**READ A FIRST, SECOND AND THIRD
TIME AND FINALLY PASSED THIS
24th DAY OF APRIL, 2017.**

CONSOLIDATED VERSION – ORIGINAL SIGNED

MAYOR DOUGLAS JOYNER

CONSOLIDATED VERSION – ORIGINAL SIGNED

CAROLYN LANGLEY, CLERK

the close of the *permit*, any deposit funds remaining will be refunded to the applicant.

1.2.4 Forfeiture of the Performance / Security deposit may result as prescribed below for the following conditions due to additional administrative and / or inspection costs:

- (1) when water is placed in the *swimming pool* contrary to the by-law prior to successful completion of the required inspection, the submitted deposit shall be forfeited in full; or
- (2) where more than five (5) years have lapsed from the date of the last documented inspection, the submitted deposit shall be forfeited in full.

1.2.5 The deposits collected in accordance with subsection 1.2 of this schedule shall be held by the *Township* as a security until the work for which the *permit* was issued has been completed in accordance with the stipulated requirements and conditions of the *permit* to the satisfaction of the *Chief Building Official*.

1.2.6 The *owner*, to whom the *permit* was issued, shall be responsible for any damage caused to *Township property* or any other restrictions. The costs associated with the repair of such damage may be deducted by the *Township* from the securities held through the deposit in addition to any other available remedy or penalty.

1.2.7 Should the cost of repairs exceed the value of the deposit held, the *Township* shall invoice the *owner*, to whom the *permit* was issued, for the amount exceeding the deposit. If such invoice is not paid in accordance with the terms of the invoice, the *Township* may recover the costs by action or by adding the costs to the tax roll of the *property* to which the *permit* relates, and collect them in the same manner as taxes per Section s.1 (2.1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended.

SECTION 2 REFUNDS

2.1 FEES

2.1.1 As the established *permit* fees are minimum fees based on the review and inspection the actual cost of administration, inspection and enforcement of this by-law, there shall be no available refund of *permit* fees collected with any application for *permit*.

2.2 DEPOSITS

2.2.1 Should the deposit not be required to be called upon through the duration of *construction*, inspection and closure of the *permit* file, the deposits will be

SCHEDULE 'B'

The Corporation of the Township of West Lincoln Part 1 Provincial Offences Act By-Law 2017-48: Swimming Pool By-law

SECTION 1 SET FINES AND SHORT FORM WORDING

1.1 SET FINES AND SHORT FORM WORDING

1.1.1 For the purpose of the enforcement of this by-law the short form wording and set fines shall be as prescribed in the table below as provided for in the *Provincial Offences Act, R.S.O. 1990, c.P-33*, as amended.

Table B 1.1.1: Swimming Pool Set Fines and Short Form Wording

No.	column 1 Short Form Wording	column 2 Provision Creating or Defining Offence	column 3 Set Fine
1	erect <i>swimming pool</i> without required <i>permit</i>	Article 2.1.1	\$200
2	placement of water prior to approval	Article 2.2.1	\$200
3	placement of water prior to approval – <i>seasonal swimming pool</i>	Article 2.2.2	\$200
4	failure to provide back flow prevention	Article 3.1.1	\$200
5	discharge drainage to unapproved outlet	Article 3.1.2	\$200
6	failure to provide <i>swimming pool enclosure</i>	Article 4.1.1	\$200
7	failure to close and lock <i>gate / entrance</i>	Article 4.3.1	\$200
8	failure to provide <i>temporary enclosure</i>	Article 4.4.1	\$200
9	failure to maintain <i>swimming pool enclosure</i>	Article 4.5.1	\$200
10	failure to maintain <i>swimming pool / hot tub</i> in good working order	Article 4.5.4	\$200
11	failure to prevent the presence of standing water	Article 4.5.5	\$200

The general penalty provision for the offences listed above is Article 5.3.1 of By-law 2017-48, a certified copy of which has been filed.