

**Township of Killaloe, Hagarty and Richards  
Swimming Pool Enclosure By-Law**

**By-Law No. 20-2021**

**Being a by-law of the Corporation of the Township of Killaloe, Hagarty and Richards respecting the enclosure for privately owned outdoor swimming pools.**

**WHEREAS** Section 10(2), paragraph 6, of the Municipal Act, 2001, S.O. 2001, c. 25 authorizes a municipality to pass by-laws respecting the health, safety, and wellbeing of persons.

**AND WHEREAS** Section 10(2), paragraph 10, of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes a municipality to pass by-laws respecting structures, including fences and signs.

**AND WHEREAS** Section 8(3) of the Municipal Act, 2001, S.O. 2001, c. 25, 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(a) of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a municipality may pass bylaws 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 Township of Killaloe, Hagarty and Richards deems it necessary to regulate enclosures for outdoor pools within the Township.

**THEREFORE**, the Council of the Township of Killaloe, Hagarty and Richards enacts as follows:

**SHORT TITLE:**

1. This by-law may be cited as the "Swimming Pool Enclosure By-Law."

**DEFINITIONS:**

2. In this by-law:

- (a) "Building Inspector" shall mean the Building Inspector appointed by the Council of the Corporation of the Township of Killaloe, Hagarty and Richards, or his or her authorized subordinates or assistants.
- (b) "Corporation" shall mean the Corporation of the Township of Killaloe, Hagarty and Richards.
- (c) "Enclosure" shall mean any combination of fence, wall, or other structure, including a door or gate, or other opening surrounding a pool to restrict access to a pool.
- (d) "Fence" shall mean a barrier constructed of chain link or of wood, stone, metal, or material having an equivalent degree of strength to enclose and/or define the enclosure of a swimming pool.
- (e) "Gate" shall mean a barrier swinging in a vertical axis used to close and access in an enclosure.

- (f) "Municipal By-Law Enforcement Officer" shall mean a Municipal By-Law Enforcement Officer appointed by the Council of the Corporation of the Township of Killaloe, Hagarty and Richards.
- (g) "Owner" includes the registered owner of the land, a lessee of the land, mortgagee in possession of the land, or a person(s) in charge of land where a swimming pool is constructed or located.
- (h) "Permit" shall mean permission or authorization given in writing by the Building Inspector to erect enclosures around swimming pools as regulated by this by-law.
- (i) "Swimming Pool" shall mean any privately-owned outdoor below grade or above ground pool of water for bathing, wading, or reflecting and which has a water depth potential exceeding 18 inches at any point, but shall exclude outdoor hot tubs, whirlpools, or spas provided that a lockable cover is fixed securely to the unit
- (j) "Township" shall mean the Township of Killaloe, Hagarty and Richards.

**GENERAL REQUIREMENTS:**

- 3. Every owner of a privately owned outdoor swimming pool shall ensure that an enclosure around such a pool is constructed and maintained according to the provisions of this by-law.
- 4. No person shall place water in a swimming pool in the Township unless the prescribed enclosure has been erected in accordance with the provisions of this by-law.
- 5. No person shall allow water to remain in a swimming pool in the Township unless the prescribed enclosure has been erected in accordance with the provisions of this by-law.

**PERMITS:**

- 6. No person shall construct or place a swimming pool on his/her property in the Township without first obtaining a swimming pool enclosure permit.

**APPLICATION FOR PERMIT:**

- 7. To obtain a permit the owner shall file an application in writing by completing a prescribed form available from the Building Inspector or Municipal Office.
- 8. Except as otherwise permitted by the Building Inspector, every applicant shall:
  - (a) identify and describe in detail the work to be covered by the permit for which an application is made,
  - (b) describe the land on which the pool is to be located by a description that will, readily identify and locate the building lot,
  - (c) be accompanied by two (2) complete sets of plans showing details of the enclosure as well as its relationship to lot lines, buildings, fences, and septic system

- (d) be accompanied by the fee as prescribed in Section 11 hereof, and
- (e) state the names, addresses and telephone numbers of the owner and the contractor performing the work.

- 9. Any permit issued under the provisions of this by-law shall expire when no building construction of significance has commenced within 6 months from the date of issuance. Additionally, if construction has commenced and no further activity or inspection requests occur within 12 months of last inspection, the permit may be considered expired and/or revoked and/or abandoned at the discretion of the Chief Building Official. If a permit becomes expired, revoked, or abandoned then no further construction shall take place that was contemplated for in the Permit. No notice is required from the Township to the permit holder, of an expired, revoked, or abandoned permit.
- 10. Sufficient information shall be submitted with each application for a permit to enable the Building Inspector to determine whether or not the proposed work will comply with this by-law or any other applicable law or regulation.
- 11. The fee for a swimming pool enclosure permit shall be one hundred dollars (\$100.00). Any proposed attached structures, such as decks, may be considered as additional square footage for the purpose of determining permit fees.

**LAWFULLY EXISTING POOLS:**

- 12. Owners of swimming pools that were lawfully installed under municipal regulations prior to the date of the passing of this by-law, will be exempt from paying the permit fee, and will have a period of 90 days from the date of the passing of this by-law to comply with Sections 3, 4 and 5 of this by-law.

**CONDITIONS OF PERMIT ISSUANCE:**

- 13. (a) Every swimming pool shall have an adequate enclosure erected around it in accordance with the provisions of subsection (a) to subsection (h) hereof inclusive.
  - (b) Every enclosure for a swimming pool shall be:
    - (i) at least 60" in height, and
    - (ii) of a close-boarded, chain link or other approved design, to reasonably deter children from climbing it to gain access to the fenced-in area.
  - (c) Gates in the enclosure shall be able to,
    - (i) provide protection equivalent to the enclosure
    - (ii) be equipped with a self-closing and latching device at the upper inside of the gate, and
    - (iii) be closed except when the enclosed area is actually being used and supervised.
  - (d) Barbed wire or fencing energized by electrical current shall not be used as an enclosure for the swimming pool.
  - (e) Where a wall of a building is used as part of an enclosure, all doors located in the wall of the building shall be equipped with self-latching and locking devices.

(f) An owner of an above ground pool over 1.2 metres shall be able to remove all ladders or other devices designed or intended to assist in the entering of a swimming pool while not in use and shall store such ladders or devices in a location not readily accessible.

(g) An owner of an above ground pool over 1.2 metres shall be able to: when using a ladder designed with a safety device that prevents use, be able to utilize such safety device.

(h) Notwithstanding the other provisions of this by-law, in the case of an above ground pool over 1.2 metres, the pool walls may be considered as an enclosure at the discretion of the Building Inspector, but access to the pool through a deck or other similar manner must be adequately enclosed in a manner consistent with the provisions of this by-law.

14. There shall be a minimum distance of four (4) feet between the enclosure and any part of a below grade swimming pool unless otherwise approved by the Building Inspector.

15. When an enclosure is not erected or maintained in accordance with the provisions of this by-law, a notice shall be sent by **registered mail, delivered by hand or emailed** to the owner of the land on which the swimming pool is located, at his/her last known address, requiring him/her to make the enclosure conform to the requirements of this by-law, and the notice shall specify a minimum time of 30 days for compliance.

16. (a) Where a notice has been sent pursuant to Section 15 and the requirements of the notice have not been complied with, the Building Inspector may cause the work to be done, or the water to be removed from the swimming pool, and the cost of the work or the removal of the water shall be at the expense of the owner.

(b) When the Building Inspector causes the work to be done pursuant to Subsection (1), the Corporation shall have a lien for any amount expended by or on behalf of the Corporation and for an administrative fee of ten (10%) percent of any amount expended by or on behalf of the Corporation, and the certificate of the clerk of the Corporation as to the total amount expended shall be admissible in evidence as prima facie proof of the total amount expended and such total amount, together with the administrative fee shall be added to the collectors roll of taxes and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in like manner and with the same remedies as real property taxes.

(c) Before the certificate of the Clerk of the Corporation is issued under Subsection (2), an interim certificate shall be delivered to the owner of the property that is subject to the lien, as well as to all prior mortgagees or other encumbrancers and the affected owner, mortgagees or encumbrancers shall have two (2) weeks from the date of receipt of the interim certificate to appeal the amount shown thereon to the council of the Corporation.

17. An owner of an above ground pool over 1.2 metres shall ensure that all ladders and devices, designed or intended to assist in the entering the swimming pool, will be stored in a location not readily accessible when the swimming pool is not in use.

18. An owner of an above ground pool over 1.2 metres shall ensure that the safety device, of a ladder designed with a safety device that prevents use, will be utilized when the swimming pool is not in use.

**PENALTIES:**

19. The provisions of this by-law may be enforced by the Municipal Building Inspector, Municipal By-Law Enforcement Officer or a Police Officer.
20. Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction thereof shall forfeit and pay a penalty for each such offence and every such penalty shall be recoverable under the Provincial Offences Act, R. S. O. 1990, Chapter P.33, and amendments thereto.
21. When a person has been convicted of an offence under this by-law any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.
22. The requirements of this by-law are severable. If any requirements of this by-law are held invalid, the application of such requirements to other circumstances and the remainder of this by-law shall not be affected.
23. By-Law 13-2001 is hereby repealed.
24. This by-law shall come into force and take effect on the date of final passing thereof.

Read a first and second time this 18<sup>th</sup> day of May , 2021.

Read a third time and finally passed this 18<sup>th</sup> day of May, 2021.

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Mayor

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Clerk-Treasurer