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Being a By-Law of the Corporation of the Township of Greater Madawaska to regulate the fencing, care, and operation of privately owned swimming pools.

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**WHEREAS** Section 11(2) of the Municipal Act, 2001, as amended, provides that a lower-tier municipality may pass By-Laws subject to the rules set out in subsections (4), respecting health, safety, and well-being of persons;

**AND WHEREAS** Section 11(3) paragraph 7 of the Municipal Act, 2001 provides that a lower-tier municipality may pass By-Laws subject to the rules set out in subsection (4), respecting matters within the following spheres of jurisdiction: structures, including fences and signs;

**AND WHEREAS** it is deemed necessary by the Council of the Corporation of the Township of Greater Madawaska to pass such a By-Law in order to protect the health and welfare of the citizens of the Township of Greater Madawaska.

**NOW THEREFORE**, the Council of the Corporation of the Township of Greater Madawaska enacts as follows:

### 1) INTERPRETATION

For the purpose of the By-law the following definitions shall apply:

- a) **"Private Swimming Pool"** shall mean any body of water on privately owned property, contained by artificial means, and maintained for the purpose of swimming, wading, diving, or bathing, and excludes any pool which is designed to have a maximum holding capacity of water of .61 m (24 inches) or less in depth.
- b) **"Enclosure"** shall mean a fence, wall, or other structure, including doors and gates, completely surrounding a pool.
- c) **"Fence"** shall mean a barrier constructed of chain link metal, wood, stone, metal, or material having an equivalent degree of strength.
- d) **"Gate"** shall mean a swinging or sliding barrier used to fill or close an access and includes a door.
- e) **"Building Official"** shall mean the Chief Building Official for the Township.

### 2) ADMINISTRATION & ENFORCEMENT

- a) No privately owned swimming pool shall be constructed or maintained unless there is erected and maintained around the pool an approved fence and gates. Every private swimming pool shall be secured against entry of the public other than tenants or their guests, and no invitation to the public shall be extended.
- b) Every owner of the property shall obtain a permit from the Building Official certifying approval of all fence and gate designs prior to the excavation of any privately owned swimming pool. The fees for such a permit shall be in accordance with the Township's current Fees & Charges By-Law.
- c) All fences enclosing a private swimming pool shall be of a minimum height extending from the ground or floor of 1.5 m (5 feet) and a chain link metal fence shall be supported by iron posts set in concrete spaced no more than 3 m (10 feet) apart; amount of concrete will be at the discretion of the Building Official. A wall of a building may be considered to provide adequate protection for its length when

substituted for any portion of a fence if all doors located in this wall are equipped with locks and self-closing and latching devices located at least 1.5 m (5 feet) above the bottom of the door and the building is continuously occupied or all doors are locked when it is not occupied.

- d) No barbed wire nor device for projecting an electric current shall form part of any such fence or gate.
- e) Any fence constructed shall not have horizontal members placed in such a way as to facilitate climbing.
- f) Chain link fence shall have a mesh size of 38 mm X 38 mm (1 1/2 inches x 1 1/2 inches) maximum.
- g) Every fence shall be so constructed and maintained as to provide access to the swimming pool only by a gate or gates.
- h) All gates shall be of a minimum height extending from the ground or floor of 1.5 m (5 feet), supported by substantial hinges and equipped with self-closing and self-latching devices placed at the top and on the inside of the gate.
- i) No part of the swimming pool shall be constructed closer than 3 m (10 feet) to any lot line. For the purpose of the foregoing the distance to the lot line shall be measured from the nearest outside edge of the pool.
- j) A swimming pool and structures to be used in conjunction with such swimming pool, may only be erected in the side or rear yard only.
- k) No part of any such swimming pool shall be located within the Shoreline Activity Area on a lot adjacent to a waterbody.
- l) Pool illumination shall be directed away from adjacent residential properties.
- m) No water circulation or treatment equipment such as pumps or filters shall be located closer than 3 m (10 feet) to any rear or side lot line unless enclosed in a garage or other such accessory building.

### **3) ABOVE GROUND SWIMMING POOLS**

- a) For the purpose of this By-Law above ground privately owned swimming pools are considered to be the same as in ground privately owned outdoor swimming pools and require the same enclosures around the entire pool.
- b) Above ground pools which have, as an integral part of their construction, a fence around the pool area, may be considered to meet the fencing requirements provided:
  - a) The enclosure is at least 1.5m (5 feet) in height.
  - b) The enclosure surrounds the entrance ladder, or other access, and any equipment such as heater, filter, etc.
  - c) The pool is made inaccessible, and the enclosure cannot be scaled by a small child acting on his own.

### **4) INFINITY POOLS**

Fencing may not be required for Infinity Pools provided:

- a) Access to the pool area is within enclosure and,
- b) Pool wall is at least 1.5m (5 feet) in height, at discretion of Building Official.

**5) GENERAL**

- a) Where access to a swimming pool is provided by means of a portable ladder or ladders, then in the absence of adult supervision, such ladder or ladders shall be kept away from the swimming pool.
- b) Every owner of a swimming pool shall, in the absence of an adult person supervising the swimming pool, keep every gate securely locked.
- c) No person shall place water in a privately owned outdoor swimming pool or allow water to remain in a privately owned swimming pool unless the prescribed fences and gates have been erected and approved by the Building Official.
- d) Existing pools which are fenced at the passing of this By-Law shall be inspected by the Building Official or his Designate to determine whether the existing fence and gates are adequate to protect the safety and welfare of children who might otherwise gain access to the pool, and if not, such fences and gates shall be made to comply with this By-Law.

**6) PENALTY**

Every person who contravenes any of the provisions in this By-Law shall, upon conviction thereof, be liable to a fine not exceeding \$1,000.00 exclusive of costs.

**7) INTERFERENCE**

No person shall interfere with or hinder the Building Official of the Corporation of Greater Madawaska in the performance of any duty herein provided.

- a) For the purpose of discharging the duties imposed by this By-Law and to enforce its provisions, the Corporation shall engage the personnel necessary to administer the same.

**THAT** this By-Law shall come into force and effect on the day of final passing thereof.

**AND THAT** By-law 42-2023 is hereby repealed.

**BE IT FURTHER ENACTED** that all By-Laws, or parts thereof, and all or any Resolutions of Council contrary there to, or inconsistent here with, be and the same are hereby repealed.

**READ** a first and second time this 21st of September, 2023.

**READ** a third time and passed this 21st of September, 2023.

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Rob Weir  
Mayor

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Robin Emon  
Clerk