

THE CORPORATION OF THE TOWNSHIP OF NORTH STORMONT

BY-LAW NO. 91-2021

Being a by-law of the Corporation of the Township of North Stormont to legislate the height and description of lawful fences and pool enclosures and other certain matters respecting privately owned outdoor pools;

WHEREAS Section 10 (2), paragraph 6, of the Municipal Act, 2001, S.O. 2001, c. 25 (hereinafter the "Municipal Act 2001") 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, authorizes a municipality to pass by-laws respecting structures, including *fences* and signs;

AND WHEREAS Section 8(3) of the Municipal Act 2001, 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 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 North Stormont deems it necessary to regulate *enclosures* for outdoor pools within the *Township* of North Stormont;

NOW THEREFORE Council of the *Township* of the North Stormont hereby enacts as follows:

1. SHORT TITLE

1.1 This By-law shall be known as the "Pool Enclosure By-law."

2. DEFINITIONS:

2.1 "*Building*" means any structure used or intended for supporting or sheltering any use or occupancy;

2.2 "*Chief Official*" means the Chief Building Official of the *Corporation* of the *Township* of North Stormont or his /her authorized assistants;

2.3 "*Construct*" means to do anything in the erection, installation removal of a pool or enclosure, and constructed and construction have the same meaning;

2.4 "*Dwelling*" means a building used and occupied as a residence, but may not be a garage or shed;

2.5 "*Enclosure*" means any combination of fence, wall, safety cover or other structure, including any permitted door, gate or other opening which surrounds a pool and restricts access to a pool;

- 2.6** "*Fence*" means a barrier constructed chain-link, metal, brick or wood at a minimum height of 1.2 m (4');
- 2.7** "*Gate*" means a swinging or sliding barrier used to fill or close an access in the *enclosure* at a minimum height of 1.2 m (4') and includes a door leading from a garage or other accessory structure;
- 2.8** "*Grade*" means the elevation of the finished surfaces immediately surrounding the outside of an *enclosure*;
- 2.9** "*Hot tub*" means a type of pool which may or may not include a lid or safety cover or jets of water; and shall include tubs which are commonly called 'spas' or 'whirlpools'; and can hold a minimum of 600 mm (24") of water;
- 2.10** "*Owner*" means any person who takes possession of a property under a charge or mortgage registered on title of the property;
- 2.11** "*Permit*" means permission or authorization in writing from the Chief Official;
- 2.12** "*Pool*" means an outdoor *pool* of water for swimming, bathing, wading or reflecting, including any *Hot tub*, which is capable of retaining a water depth equal to or greater than 600 mm (24") at any point, but shall not include: facilities for the purposes of providing water to livestock, or for irrigation of crops which are associated with and located on land devoted to the practice of farming, and stormwater management ponds, or outdoor *pools* owned or operated by the Township;
- 2.13** "*Service Entrance*" means that entrance into a *building* which is normally used by persons entering such *building* for the purpose of delivering goods or carrying out maintenance services as opposed to the main or principal entrance, but does not include a secondary entrance serving a single *dwelling* unit;
- 2.14** "*Township*" means the corporation of the *Township* of North Stormont.

3. GENERAL

- 3.1** No person shall excavate for or construct or cause to be excavated for or constructed a *pool* until a *permit* has been issued therefor by the Chief Official.
- 3.2** A *permit* is not required in the case of a *pool* which has been dismantled and is being reconstructed in the same position and the same manner in which it was previously located provided a *permit* was obtained for the original installation and provided that the reinstallation meets the requirements of all currently applicable By-laws.
- 3.3** Every person who is the *owner* of a *pool* shall:
- i. Erect and maintain an *enclosure* around the *pool*; and
 - ii. Install and maintain the backwash and drainage connection for the *pool* as prescribed in the By-law.

- iii. Every *owner* of a *pool* shall, in the absence of a supervising adult person, keep every *gate* closed.
- iv. No person shall place water in any *pool* until the *enclosure* therefor, including temporary *fences*, has been inspected and approved by the Chief Official or his designate.
- v. No *owner* shall construct, erect or place any materials, pump, filter, structures, retaining wall or other articles whatsoever, adjacent to an *enclosure* so as to reduce the effective height below the minimum requirements of this By-law to a distance of 1.2 m (4').
- vi. Nothing in this By-law shall prevent the use and maintenance of any *fence* as part of an *enclosure* if such *fence* was erected prior to the passing of this by-law.

4. ENCLOSURES

- 4.1** Every *enclosure* shall be so constructed as to provide access to the *pool* only by *gate(s)* or door(s), and shall have no features which would facilitate climbing.
- 4.2** Every part of an *enclosure* shall have a minimum height of 1.2 metres (4') measured from *grade* to the top of the *enclosure* on the *outside*.
- 4.3** Any above ground pool with side walls being 1.2 metres (4') in height or greater, from the *grade* to the top of the pool shall be deemed to have met the pool *enclosure* requirements. Any and all areas of the pool facilitating access to the pool shall be protected in accordance with the requirements of this by law.
- 4.4** The *pool enclosure* shall be located a minimum of 1.2 metres (4') away from any structure on its *outside* (i.e. *fence*, air conditioning unit, meter steps, ledges, window sills, etc.) which affords a means whereby the *enclosure* could be scaled from the *outside*.
- 4.5** There shall be a minimum horizontal distance of 1m between any part of an *enclosure* and the *inside* face of the in-ground *pool* wall assembly.
- 4.6** Openings through or under any part of the *enclosure* shall be of a size so as to prevent the passage of a spherical object having a diameter of 100mm (4").
- 4.7** Barbed wire or fencing energized by electrical current shall not be used or form part of an *enclosure* for an outdoor *pool*.

5. FENCES

- 5.1** A *fence* of chain link construction shall:
 - i. Be supported by minimum 38 mm (1.5") diameter galvanized steel posts extending a minimum of 1 metre (3'4") below grade spaced not more than 3 metres (9'10") apart;

- ii. have top and bottom rails firmly fastened to the upright posts consisting of minimum 30 mm (1.2") diameter galvanized steel pipe. A galvanized steel tension rod 5 mm (0.2") diameter may be substituted for the bottom rail; and
- iii. have a mesh not greater than 38 mm (1.5") consisting of 12 gauge galvanized steel or covered wire, or have a mesh not greater than 50mm (2") consisting of 11 gauge galvanized steel or covered wire.

5.2 A *fence* of wood construction shall:

- i. Be supported by posts at least 89 x 89 mm (3.5" x 3.5") extending a minimum of 1 metre (3' 4") below *grade* spaced not more than 2.4 metres (7'10") apart;
- ii. have that portion of the post below *grade* treated with an approved wood preservative;
- iii. have top and bottom rails at least 38 mm x 89 mm (1.5" x 3.5"); and
- iv. have vertical boarding not less than 19 mm x 89 mm (0.75" x 3.5") attached to the top and bottom rails.

5.3 A *fence* of any other construction which provides an equivalent or greater degree of safety to that specified in sub sections 5.1 and 5.2 may be approved by the Chief Official upon the receipt of complete plans and specifications for such *fence*.

5.4 A section of temporary *fence* may be erected during the construction process provided that this section:

- i. Does not exceed 3 metres (9'10") in length without support;
- ii. is properly maintained as a *gate* in the *fence*; and
- iii. does not exist for more than 21 days.

6. GATES AND/OR DOORS

6.1 Every *gate* shall be:

- i. Of such height and of such construction as will provide a degree of safety and rigidity equivalent to or greater than that of a required *fence*;
- ii. supported on substantial hinges;
- iii. self-closing and self-latching with the latching device located near the top and on the *inside* of the *gate*, or in the case of a door, located a minimum of 1.21 metres (4') above *grade*; and
- iv. lockable.

6.2 The wall of a *building* may form a part of the required *pool enclosure* except where this would result in a main *building*

entrance or a *service entrance* being located within the *enclosure*.

7. MAINTENANCE

- 7.1** Every part of an outdoor *pool enclosure* shall be maintained in a structurally sound and upright condition to reasonably deter children from climbing through, over or under to gain access to the enclosed area.

8. BACKWASH

- 8.1** The pool backwash shall be deemed appropriate for disposal.

9. PERMITS

- 9.1** *Permit Fees* as set out in the user fees by-law.

10. APPLICATION FOR PERMIT

- 10.1** An applicant shall apply to obtain a pool permit and prepare a location plan of the proposed *pool*, complete with specifications showing the pool's location on the lot and a plan of its enclosure.
- 10.2** A *permit* may be deemed to have been abandoned six (6) months after the date of permit issuance.
- 10.3** Sufficient information shall be submitted with each application for *permit* to enable the Chief Building Official to determine whether or not the proposed work will conform to the By-law.
- 10.4** Plans shall:
- a. Be drawn according to building application; and
 - b. Indicate the nature and extent of the work in sufficient detail to establish that the complete work will conform to the by-law and any other applicable law.

11. ADMINISTRATION

- 11.1** When an *enclosure* is not erected or maintained in accordance with the provisions of this by-law, the *Chief Official* shall send a notice by registered mail or by hand to the *owner* of the land on which the *pool* is located, at his last known address requiring him to make the *enclosure* conform to the requirements of this by-law.
- 11.2** Where a notice has been sent by the *Chief Official* pursuant to this by-law, and the requirements of the notice have not been complied with, the *Chief Official* may cause the work to be done and the *Township* may recover such expense by action or in like manner as municipal taxes.
- 11.3** A copy of an invoice for charges and expenses referred to subsection 11.2 hereof, together with a certificate by Treasurer that:

- i. The invoice has been sent to the persons liable to pay same;
- ii. No payment or insufficient payment has been received in respect of the invoice; and
- iii. Payment of the invoice is overdue,

Shall be sufficient authority to enter the amount of the unpaid balance of the invoice on the Collector's Roll.

12. PENALTIES

12.1 Every person who contravenes a provision this By-law is guilty of an offence and, upon conviction, is liable to a fine of not more than \$2,000.00, exclusive of costs.

12.2 When a person has been convicted of an offence under this by-law, the Provincial Court (Criminal Division) of the Judicial District of Stormont, Dundas & Glengarry or 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.

13. VALIDITY

13.1 Should any section, clause, or provision of this By-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the By-law shall not be affected, and said section, clause, or provision shall be severable from the remainder of the By-law and shall not be deemed to have persuaded or influenced the Council to pass the remainder of the By-law.

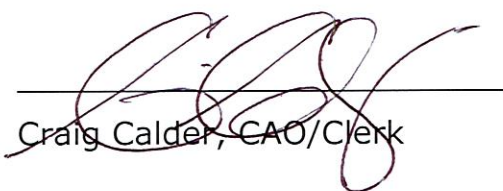
14. REPEAL

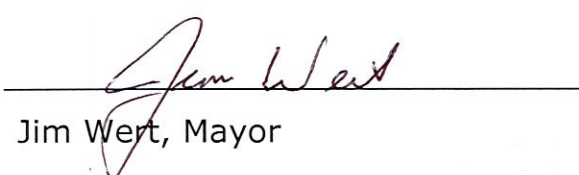
14.1 By-Law No. 44-2001 and any other by-laws inconsistent herewith are hereby repealed.

15. FORCE AND EFFECT

15.1 This By-law shall come into force and take effect on the date of enactment.

READ A FIRST, SECOND AND THIRD TIME, passed, signed and sealed in open Council this 5th of October 2021


Craig Calder, CAO/Clerk


Jim Wert, Mayor

SEAL