

THE CORPORATION OF THE MUNICIPALITY OF MACHIN

**BY-LAW NUMBER 21-2006**

Being a by-law to rescind the Municipal By-law 637-82 and to establish regulations concerning swimming pool enclosures.

WHEREAS Subsection 11 to the Municipal Act, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws respecting fences; and

WHEREAS subsection 9(3) of the Municipal Act, S.O. 2001, c.25, as amended, authorizes a municipality to regulate or prohibit matters pertaining to fences and as part of that power, to provide for a system of approvals or permits and to impose conditions as requirements of obtaining, continuing to hold or reviewing the approval or permit; and

WHEREAS subsection 130 of the Municipal Act, S.O. 2001, c.25, as amended, authorizes a municipality to regulate matters not specifically provided for by this Act or any other Act for purposes of related to the health, safety and well-being of the inhabitants of the municipality; and

WHEREAS the Council of the Corporation of the Municipality of Machin deems it necessary and expedient to establish regulations concerning swimming pools;

NOW THEREFORE The Council of the Municipality of Machin enacts as follows:

**Definitions:**

- A. For the purposes of this Chapter the definitions and interpretations given in this section shall govern:

ENCLOSURE - A fence, wall or other structure, including doors and gates, surrounding a privately-owned outdoor swimming pool to restrict access thereto.

OWNER - Includes a lessee or tenant in possession of property on which a Pool is located.

POOL - Any privately-owned body of water located outdoors above or below finished grade on privately owned property, contained by artificial means in which the depth of the water at any point can exceed 600 mm (24 inches) and used or capable of being used for the purpose of swimming, diving or bathing and shall include hydro-massage pools (hot tubs).

**Enclosures Required.**

- A. The Owner of each pool as defined hereof shall erect and maintain an Enclosure around each such Pool.
- B. Any enclosure required to be provided and maintained under this Subsection may include:
- (1) One or more gates which are erected and maintained in accordance with this chapter.
  - (2) Any part of a wall of a building if the part used as part of the Enclosure exceeds 1.5 metres (60 inches) in height;

**Specifications for enclosures.**

- A. Every Enclosure shall be required to be erected and maintained in accordance with this chapter shall be:
- (1) Not less than 1.5 metres (60 inches) in height above grade;
  - (2) Constructed so that any Enclosure post or other structural member of the Enclosure to which any wire, boards or other materials are attached is on the pool side of such wire, boards or other materials;
  - (3) Constructed so that it has no openings, rails, or horizontal or diagonal attachments on the outside which facilitate climbing;
  - (4) Constructed so that the only mean of ingress to or egress from the area enclosed by the Enclosure shall be through doors or gates constructed in accordance with Subsection B of this section;
  - (5) Where constructed of chain link, the material shall be of not less than twelve-gauge with diamond mesh not larger than 40 mm (1.5 inches); shall be supported by metal posts set in concrete and spaced not more than three metres apart; and shall, throughout its length, having a taut wire interwoven through the bottom links to prevent the bottom portion of the Enclosure from being raised;
  - (6) Where constructed of wood, the boards shall be placed vertically not more than 40 mm (1.5 inches) apart;
  - (7) All Enclosures shall be located not less than 1.5 Metres (60 inches) from the edge of the pool;
  - (8) The bottom of all enclosures shall be at grade level.
- B. Every gate included in a enclosure required shall be:
- (1) Constructed in accordance with the provisions of subsection a hereof.
  - (2) Equipped with self-closing and self-latching devices so that, when not in use, the gate is at all times closed and latched. Such latching device shall be located at the top of the gate on the Pool side.
  - (3) When an adult person is not present supervising the Pool, the gate or gates are to be kept closed and locked. Such enclosures and gates shall be erected and maintained so that no access to the swimming pool is possible except through the gate or gates provided. Nothing in this chapter shall prevent the use of nay existing or proposed wall or walls or a structure located on the same property as one or more sides of the Enclosure, provided, however that such wall or walls shall be of greater strength than the required Enclosure and shall be approved by the Chief Building Official.

#### **Above Ground Pools**

- A. Notwithstanding the provisions hereof, in the case of a pool constructed entirely above grade and so constructed that it has no openings, rails or horizontal or diagonal attachments on the outside which would facilitate climbing, and such pool is constructed with rigid, vertical pool sidewalls not less than 1.5 metres (60 inches) in height, only the fixed-in-place steps to such pool are required to be enclosed and equipped with a gate as hereinbefore provided. The fencing around

such steps and the gate shall in all respects comply with the provisions of this Chapter.

- B. If no fixed-in-place steps are constructed on a pool and access to the pool is gained only by use of a portable access ladder, such ladder shall be removed away from the pool such that it does not permit access to the pool at all times when the pool is not in use.
- C. No person shall permit or cause to be permitted a portable access ladder to be left in place at a pool when the pool is not in use.

### **Hydro Massage Pools**

- A. Hydro-Massage pools, also known as “hot tubs” are exempt from the provisions of this Chapter provided that a substantial cover is attached to the pool and locked to prevent access when the pool is not in use.
- B. No person shall permit or cause to be permitted the substantial cover of a hydro-massage pool to be unattached or unlocked when such pool is not in use.

### **Construction plans for enclosures and gates**

Prior to the construction of Enclosures and gates as required hereby, the Owner of the swimming pool shall produce and deposit with the Chief Building Official, or his or her designate, plans showing all Enclosures and gates proposed to be constructed, such plans to show the location of such enclosures and gates and their manner of construction in sufficient detail to permit the Chief Building Official, or his or her designate, to ascertain whether or not the proposed Enclosures and gates shall comply with the provision of this Chapter.

### **Issuance of permit**

In the event that the proposed Enclosures and gates comply with the provision of this chapter, the Chief Building Official, or his or her designate shall, issue a permit certifying that he or she has approved such plans.

### **Certificate for previously constructed Enclosures and gates**

A certificate may be issued for such Enclosures and gates as may have been constructed prior to the date hereof but which in all respects comply with the provision of this Chapter.

### **Permit Required**

No person shall erect or cause to be erected a pool without first obtaining a permit as heretofore provided.

### **Fee**

The fee for a permit issued under this Chapter shall be the minimum Building permit fee as listed in Schedule of Fees 18-2002 and payable prior to the issuance of a permit.

### **Erection of Enclosures prior to filling pools required**

No person shall place water in a pool or allow water to remain therein unless the Enclosure and gates prescribed hereby have been erected in compliance with the provisions of this Chapter.

**Compliance with other by-laws**

The Chief Building Official, or his or her designate, is authorized to refuse to issue a permit for any such enclosure or gate which, if erected, would be contrary to the provisions of any by-law of this municipality.

**Applicability**

- A. This chapter shall apply to any privately owned body of water located outdoors above or below finished grade on privately owned property, contained by artificial means in which the depth of the water at any point can exceed 600 mm (24 inches) and used or capable of being used for the purpose of swimming, diving or bathing and shall include hydro-massage pools (hot tubs).
- B. Provisions of this Chapter are applicable to the entire Municipality.

**Enforcement; inspections, duty of owner**

This Chapter shall be enforced by the Chief Building Official. It shall be the duty of every Owner of Pools to obtain a certificate from the Chief Building Official stating that the Enclosure around such Pool has been inspected and has been found satisfactory.

**Offences**

Any person who contravenes any provision of this chapter is guilty of an offence and, upon conviction, is liable to a penalty as provided in the Provincial Offences Act.

THAT this by-law shall come into force and take effect on the final passage hereof.

READ a FIRST, SECOND and THIRD time, and FINALLY passed this 8<sup>th</sup> day of May, 2006.

THE CORPORATION OF THE  
MUNICIPALITY OF MACHIN

\_\_\_\_\_  
Barbara Beernaerts - Mayor

\_\_\_\_\_  
Tammy Rob - Clerk Treasurer

**SET PENALTY SCHEDULE**

- 1. Permit or cause to permit ladder to be left in pool while not in use \$150.00
- 2. Permit or cause to permit cover to be left off in Hydro Massage pool while not in use \$150.00
- 3. Erect or cause to erect outdoor swimming pool, fail to obtain

	permit.	\$150.00
4.	Fill pool, no prescribed enclosure or gate	\$300.00
5.	Allow water to remain in pool, no prescribed enclosure, gate	\$300.00