

THE CORPORATION OF THE TOWNSHIP OF MACHAR

BY-LAW NO. 6-12

**Being a by-law to regulate swimming pools
in the Township of Machar.**

WHEREAS the Council of the Corporation of the Township of Machar desires to enact the within by-law;

AND WHEREAS subsection 10. (2) of the Municipal Act R.S.O. 2001 authorizes the municipality to regulate matters related to health, safety and well being of the inhabitants of the municipality;

AND WHEREAS the municipality deems it responsible to pass by-laws to require owners of privately owned swimming pools to erect and maintain fences and gates around swimming pools, for prescribing the height and description of and the manner of erecting and maintaining such fences and gates, for prohibiting persons from placing water in privately owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit certifying approval of such plans without which permit no privately owned swimming pool may be excavated for, or erected and for authorizing the refusal of a permit for any such fences or gates that if erected would be contrary to the provisions of any by-law of the municipality;

NOW THEREFORE the Council of the Corporation of the Township of Machar enacts as follows:

1. Definitions

- (1) "Chief Building Official" means the Chief Building Official or person authorized by Council to act as Chief Building Official.
- (2) "Fence" means a barrier constructed of chain link, metal, wood, stone or material having an equivalent degree of strength.
- (3) "Gate" means a swinging or sliding barrier used to fill or close an access and includes a door.
- (4) "Municipal Law Enforcement Officer" means the Municipal Law Enforcement Officer or person authorized by council to act as Municipal Law Enforcement Officer.
- (5) "Person" shall include a firm, partnership, company, corporation, contractor or owner.
- (6) "Private Swimming Pool" means a privately owned outdoor pool of water, capable of containing water in excess of 450 mm (18 inches) but does not include a secure hot tub.
- (7) "Secure Hot Tub" means a private outdoor hot tub, whirlpool, hydro massage pool or spa with a rigid lockable and tight fitting cover that will withstand human weight without collapse while not in use.
- (8) "Township" shall mean the Corporation of the Township of Machar.

2. Enforcement

- (1) This by-law shall be enforced by the Municipal Law Enforcement Officer.

3. Fences and Permits

- (1) No person shall construct a pool or erect a fence around same without first acquiring the necessary permit or permits from the Chief Building Official. The fee will be the base price of \$100.00 plus \$10.50 for every \$1000.00 of project value.

(2) No person shall maintain a private swimming pool in the Township unless the area in which the swimming pool is located is completely enclosed by fencing in compliance with the requirements of this by-law.

(a) Such fencing, including gates therein, shall extend to the height of not less than 1.2 m (48 inches) from the top of the pool;

(b) A fence forming part of such enclosure:

(i) shall be vertically boarded wood construction, solid wood or basket weave construction, masonry, plastic, metal or chain link;

(ii) shall have no rails or other horizontal or diagonal bracing or attachments on the outside that may facilitate climbing; provided that this section shall not apply to prevent the construction or maintenance of a fence containing horizontal rails or bracing members which are spaced a minimum of 810 mm (32 inches) on center;

(iii) shall have no opening with a horizontal dimension greater than 37 mm (1 ½ inches);

(iv) shall have no device for projecting electric current through the fence;

(v) shall contain no barbed wire.

4. Guards

(1) A fence is not required where a pre-manufactured guard is installed and maintained in accordance to manufacturers requirements and fully encloses the pool.

(2) Such guard shall not measure less than 1.2 m (4 feet) from the top of the pool to the top rail.

(3) Such guard shall not have any horizontal rails lower than 900 mm (36 inches) from ground level.

(4) Such guard shall be capable to withstand normal loads it may be subject to without collapse.

5. Gates forming part of such fencing

(1) Shall be:

(a) of the same construction and height to that required for the fence;

(b) supported on substantial hinges; and

(c) equipped with self-closing and self-latching devices placed at the top and on the pool side of the gate or equipped with a lock.

6. General requirements

(1) The swimming pool area must be secured at all times except when actually used by the owner, his/her family or persons authorized by the owner to use this pool.

(2) A fence erected on the property lines which complies with the provisions of this by-law shall be deemed a sufficient fence if it completely fences in the yard in which the swimming pool is located.

(3) A wall or walls of a building or buildings may form part of such fence or guards provided that all doors affording access from a building directly to an enclosed swimming pool area, other than doors located in a dwelling unit, are equipped with a self-closing device and a self-latching device located not less than 1.2 m (48 inches) above the bottom of the door.

(4) The provisions of this by-law shall apply to all new construction of private swimming pools.

7. Penalties

(1) Any person convicted of a breach of any of the provisions of this by-law shall forfeit and pay, at the discretion of the convicting Magistrate, a penalty of not more than \$500.00 exclusive of costs, and the same shall be recoverable under the provisions of The Summary Conviction Act as provided by The Municipal Act.

8. Effective Date

(1) This by-law comes into effect on the date of enactment.

9. Repeal

(1) By-Law 10-07 is hereby repealed.

READ a 1st, 2nd and 3rd time, enacted and passed this Feb 13, 2012.

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Mayor Doug Maeck

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Clerk-Administrator Brenda Paul, AMCT