

CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE

BY-LAW NO. 98-36

Being a By-Law of the Corporation of the Township of McNab/Braeside to regulate the fencing, care and operating of privately owned swimming pools.

WHEREAS the Township of McNab and the Village of Braeside were amalgamated by order of the Minister of Municipal Affairs and Housing under subsection 25.2(4) of the Municipal Act effective January 1, 1998.

WHEREAS, Section 210(30) of the Municipal act, R.S.O. 1990 chapter M. 45 empowers the Council of The Municipality to enact By-Laws for requiring owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such 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 allow 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 outdoor 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 any by-law of the Municipality, and;

WHEREAS, it is deemed necessary by the Council of The Corporation of the Township of McNab/Braeside to pass such a By-Law in order to protect the health and welfare of the citizens of the Township of McNab/Braeside.

NOW THEREFORE, the Municipal Council of The Corporation of the Township of McNab/Braeside enacts as follows:

INTERPRETATION

1. For the purpose of this 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 or of 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 Corporation.

ADMINISTRATION & ENFORCEMENT

2. (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.

ADMINISTRATION & ENFORCEMENT (Cont'd.)

- (b) Every owner of 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 permit shall be \$50.00.
- (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 its 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 for 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 swimming pool shall be constructed closer than 1.5 m (5 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) Pool illumination shall be directed away from adjacent residential properties.
- (k) 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.

ABOVE GROUND SWIMMING POOLS

- 3. (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:
 - (i) The enclosure is at least 1.5m (5 feet) in height.
 - (ii) The enclosure surrounds the entrance ladder, or other access, and any equipment such as heater, filter, etc.
 - (iii) The pool is made inaccessible and the enclosure cannot be scaled by a small child acting on his own.

GENERAL

4. 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.
5. Every owner of a swimming pool shall, in the absence of an adult person supervising the swimming pool, keep every gate securely locked.
6. 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.
7. 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.

PENALTY

8. 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.

INTERFERENCE

9. No person shall interfere with, hinder or molest the Building Official of the Corporation 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.
10. By-Law No. 96-05, enacted on the 26th day of August, 1986 by the Council of the former Village of Braeside and By-Law No. 89-21 enacted on August 1, 1989 by the Council of the former Township of McNab are hereby repealed.
11. This By-Law shall come into force and effect on the date of its final passing.

BE IT FURTHER ENACTED, that all BY-LAWS, or parts thereof and all or any Resolutions of Council contrary thereto, or inconsistent herewith, be and the same are hereby repealed.


READ A FIRST TIME THIS 4TH DAY OF AUGUST, 1998.

READ A SECOND TIME THIS 4TH DAY OF AUGUST, 1998.

READ A THIRD AND FINAL TIME AND PASSED THIS 4TH DAY OF AUGUST, 1998.



REEVE



CLERK-TREASURER