

**THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS
BY-LAW 26-037**

BEING a by-law to provide standards for the enclosure of pools within the Municipality of Mississippi Mills

WHEREAS Section 11(1) of the Municipal Act 2001, S.O. 2001 c. 25 (hereinafter the “Municipal Act”), provides that a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4); and

AND WHEREAS section 11(2), paragraph 6, of the Municipal Act authorizes a lower tier municipality to pass By-laws respecting health, safety and well-being of persons; and

AND WHEREAS section 11 (3), paragraph 7, of the Municipal Act authorizes a lower tier municipality to pass By-laws respecting structures, including fences; and

AND WHEREAS section 8(3) of the *Municipal Act*, authorizes a municipality to regulate or prohibit in respect of matters within their jurisdiction, and to require persons to obtain permits and provide for a system of obtaining permits in relation to those matters;

AND WHEREAS under section 128 of the *Municipal Act*, a local municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of council is or could become or cause public nuisances;

AND WHEREAS the Council of the Corporation of the Municipality of Mississippi Mills deems it necessary to regulate outdoor pools and enclosures for pools;

NOW THEREFORE the Council of the Corporation of the Municipality of Mississippi Mills **HEREBY ENACTS** as follows:

1. SHORT TITLE

- 1.1. This By-Law may be cited and referred to as the “Pool Enclosure By-Law”.

2. DEFINITIONS

- 2.1. In this By-Law, words and terms shall be assigned the following definitions listed in this section. Words and terms not defined within this By-Law shall have their plain and ordinary meaning considering the context in which they are used in this By-law and interpreted in a manner that is most protective of public safety.

- 2.1.1. “**Abandoned Pool or Hot Tub**” means any *pool* or *hot tub* that, regardless of whether it contains water, due to its condition or state of repair, is incapable of being used as intended. This may include, but

is not limited to, the presence of stagnant water, deterioration or failure of the structure or support systems, including the enclosure, damaged or missing containment liners or decking, or a lack of proper maintenance.

- 2.1.2. **“Agent”** means a person duly authorized by the *owner* in writing to act for or represent the *owner* of land on which a *pool* or *enclosure* is to be constructed or is located.
- 2.1.3. **“Board Fence”** means vertical boards consisting of minimum 12.5 mm x 100mm boards with spacing between the boards not greater than 100 mm.
- 2.1.4. **“Chain Link Fence”** means minimum 12- or 14-gauge steel wire comprising of a diamond mesh pattern not greater than 50 mm.
- 2.1.5. **“Chief Building Official”** means the chief building official appointed by the council of the *Municipality*, and for the purposes of administering and enforcing the provisions of this By-law, includes a person authorized to exercise the same powers and duties as the chief building official.
- 2.1.6. **“Construct”** means to do anything in the erection, installation, extension, material alteration, removal or demolition of a *pool* or *enclosure*, or construction of a building as defined and regulated by the *Building Code Act 1992*, S.O. 1992 c. 23, (hereinafter the *“Building Code Act”*), and “construction”, “constructed”, “reconstruction” and “reconstructed” has a corresponding meaning.
- 2.1.7. **“Enclosure”** means any combination of fence, wall, *safety cover*, or other structure, including any permitted door, gate, or other access opening, surrounding a *pool* or *hot tub* to restrict access thereto.
- 2.1.8. **“Grade”** means the elevation of the finished surfaces immediately surrounding the *pool* or the *enclosure*.
- 2.1.9. **“Hot Tub”** means a type of *pool*, capable of producing and containing hot aerated water, and commonly used for recreation or physical therapy, and includes tubs commonly referred to as “whirlpool” and “spa”.
- 2.1.10. **“Municipality”** means the Corporation of the *Municipality of Mississippi Mills*.
- 2.1.11. **“Occupant”** means a person who is in physical possession of premises, or a person who has responsibility for and control over the

condition of premises or the activities carried on, or control over persons allowed to enter the premises, even if there is more than one *occupant* of the same premises.

2.1.12. "**Officer**" means a person appointed by the council of the *Municipality* as a municipal By-law enforcement *officer* for the purposes of enforcing By-laws, and includes the Chief Building Official, and may also be referred to as a By-law *officer*, peace *officer*, building inspector, or property standards *officer*.

2.1.13. "**Owner**" means a person who is the registered *owner* of the land on which a *pool*, *hot tub* or *enclosure* is to be *constructed* or is located.

2.1.14. "**Permit**" means a *permit* issued by the *Chief Building Official* as prescribed in this By-law for the *construction* of a *pool* and *enclosure*.

2.1.15. "**Pool**" means an outdoor *pool* of water for swimming, bathing, wading or reflecting, which is capable of retaining a water depth equal to or greater the 600 mm (23 5/8 in) 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, or stormwater management ponds.

2.1.16. "**Safety Cover**" means a rigid cover or lid on a *hot tub* to restrict access thereto.

2.1.17. "**Stagnant**" means water that is untreated, having no current or flow, has an unpleasant smell and appearance, is a breeding location for insects or otherwise poses a hazard to health.

2.1.18. "**Zoning By-law**" means the in-effect version of the *Zoning By-law* of the *Municipality* and any amendments thereto.

3. INTERPRETATION

3.1. In the event of any conflict between the provisions of this By-law and any provision contained in a By-law of the *Municipality* respecting fences, the provisions of this By-law shall prevail.

3.2. Unless otherwise defined, the words and phrases used in this By-law have their normal and ordinary meaning.

3.3. The headings and subheadings used in this By-law are inserted for convenience of reference only, form no part of this By-law, and shall not affect in any way the meaning or interpretation of the provisions of this By-law.

- 3.4. Unless the context requires otherwise, references to items in the plural include the singular unless used with a number modifying the term.
- 3.5. All distances, areas, weights, or other measurements in this By-law shall be read and enforced as the specified metric units, and other converted units specified in parentheses are inserted for convenience only.
- 3.6. If any section, subsection, paragraph or part thereof is declared by any Court of competent jurisdiction to be illegal, or *ultra vires*, such section, subsection, paragraph part or parts shall be deemed to be severable, and all other parts of this By-law are declared to be separate and independent, and enacted as such.

4. GENERAL

- 4.1. The purpose of this By-law is intended to restrict unauthorized access to *pools* and *hot tubs* by requiring *enclosures* that provide a practical and effective barrier against accidental or unintended entry. The property *owner* remains solely responsible for the safety of all persons permitted to access the property.
- 4.2. Every *owner* or *occupant* shall ensure that a *pool* or *hot tub* and an *enclosure* is *constructed* and maintained according to the provisions of this By-law.
- 4.3. No person shall place water in a *pool*, or *hot tub* or allow water to remain in a *pool* or *hot tub* unless the *pool* or *hot tub* and prescribed *enclosure* or *safety cover* has been *constructed* or installed and maintained in accordance with the provisions of this By-law.
- 4.4. No person shall allow a *pool* or *hot tub* to become an *abandoned pool* or *hot tub*.
- 4.5. Every person shall ensure that all lockable openings and devices prescribed in this By-law serving an *enclosure* are locked and in effect while the *pool* or *hot tub* is not in use, other than times when access to the *enclosure* is necessary for other purposes.

5. PERMIT REQUIREMENTS

- 5.1. Except as provided in Section 5.2 and 5.3, no person shall *construct* or cause to *construct* a *pool* or *enclosure* unless a *permit* for the *enclosure* has been issued by the *Chief Building Official*.
- 5.2. A *permit* is not required in the case of a *pool*, *hot tub* or *enclosure* which is being reconstructed provided that,

- 5.2.1. A *permit* was obtained for the original *pool, hot tub or enclosure*.
- 5.2.2. The existing *pool, hot tub or enclosure* meets the provisions of the applicable By-laws that were in effect at the time the Permit was issued; and,
- 5.2.3. The *pool, hot tub or enclosure* is reconstructed in the same location and the same manner in which it was previously *constructed*.
- 5.3. A *permit* is not required for a *hot tub* provided that,
 - 5.3.1. The *hot tub* has a substantial, structurally adequate cover that is capable of supporting a 90 kg (200 lbs) load, or is in compliance with the American Society for Testing and Materials Standard ASTM F1346 – 91 for *Hot tub* and *pool safety covers*.
 - 5.3.2. The *safety cover* is attached to the *Hot tub* or to its supporting structure; and,
 - 5.3.3. The *safety cover* is securely fastened and locked to prevent access at all times when the *hot tub* is not in use.

6. APPLICATION FOR A PERMIT

- 6.1 An *owner* or their *agent* shall file an application for a *permit* with the *Chief Building Official* on the application form prescribed by the *Chief Building Official* or via an *electronic permit system* if one is in use by the *Municipality*.
- 6.2 Every application for a *permit* shall be accompanied by,
 - 6.2.1. A site-plan that will identify the location of the *pool*, any buildings or structures, *enclosure* location in relation to the *pool* and buildings or structures, location(s) of any permitted door, gate, or other opening in the *enclosure*, *pool* equipment location, well and septic location (if applicable) and closest measured distance from the *pool* and *enclosure* to each *lot line* of the property it is being installed on;
 - 6.2.2. Plans indicating the dimensions of the *pool* (diameter, width, length), the depth of the *pool* (in deep and shallow end if applicable), and height of the *pool* above *grade* if applicable;
 - 6.2.3. For properties governed by the “Protection of Lot Grading and Drainage Features By-law” a grading and drainage plan that identifies all wells, septic systems, swales, retaining walls, drainage direction,

and *grade* elevations, including existing and proposed *grades* surrounding the *pool* and adjacent buildings;

- 6.2.4. The payment of the required fee as prescribed in the Fees and Charges By-law of the *Municipality* in effect on the day the application is made;
 - 6.2.5. The information and address of the property that the *pool* will be located, the names, addresses, telephone numbers, and email addresses of the *owner*, their *agent*, and the contractor performing the work, where applicable, on the application form; and,
 - 6.2.6. Any other information that the *Chief Building Official* deems necessary to determine whether the proposed *construction* will comply with this By-law and any other applicable By-law.
- 6.3. Every application for a *permit* that proposes the *construction* of a deck, floor, platform, structure, public *pool* or public spa, or any other building, as defined and regulated under the *Building Code Act*, shall be accompanied by a separate building *permit* application that complies with all requirements of that application and any building made under the *Building Code Act*.
 - 6.4. Alternative solutions may be submitted for approval, provided they demonstrate, to the satisfaction of the *Chief Building Official*, performance substantially equivalent to the requirements set out herein. Such alternatives must achieve a comparable level of safety and access control, allowing flexibility in design while maintaining the By-law's protective purpose.

7. ISSUANCE, CANCELLATION AND REVOCATION

- 7.1 Within 10 business days of receiving a complete application, the Chief Building Official shall either issue a *permit* to the *owner* or their *agent* where the application and the construction proposed are in general conformance with the provisions of this By-law, or, where a *permit* is refused or cannot be issued, inform the *owner* or their *agent* in writing of the reasons for the refusal, including any non-compliance with this By-law or any other applicable By-law.
- 7.2 Where a *permit* has been refused by the Chief Building Official, the application for a *permit* will remain active for 20 business days from the date of notification, after which, if sufficient information has not been provided to the Chief Building Official to allow the *permit* to be issued the application may be deemed abandoned and the *Chief Building Official* may cancel the application without notice and, the *permit* application fee may be forfeited.
- 7.3 A *permit* shall be valid for an initial period of one (1) year from the date of issuance of the *permit*, after which, if the *permit* has not been deemed

complete under Section 8.1.3., the *permit* shall be renewed for an additional period of one (1) year for each consecutive year that the *permit* is not complete, including payment of the required annual *permit* renewal fee as prescribed in the Fees By-law of the *Municipality* in effect on the day a renewal fee is due.

7.4 Where a *permit* has been issued, the *owner* or their *agent* may request in writing that the *permit* be cancelled, provided that either no *construction* of the *pool* has taken place, or any *pool* forming part of the *permit* has been removed from the property, and the *permit* application fee shall be forfeited.

7.5 The *Chief Building Official* may revoke a *permit* that has been issued,
7.5.1 If it was issued on mistaken, false or incorrect information;

7.5.2 If, one (1) year after its issuance, the *construction* in respect of which it was issued has not, in the opinion of the *Chief Building Official*, been substantially commenced; or

7.5.3 If it was issued in error.

8. INSPECTION, COMPLETION AND USE

8.1 The *owner* or their *agent* shall notify the *Chief Building Official* of readiness for inspection and schedule for an inspection by an *officer* upon completion of *construction* of the *pool* and *enclosure*, prior to the *pool* or *hot tub* being filled with any water.

8.2 Inspections shall be conducted within two (2) business days of the date of making the request with the first day being the first business day after the request was made unless agreed to otherwise by the person making the request and the *Chief Building Official*.

8.3 Upon the inspection required in Section 8.1, if the *officer* has deemed the *pool* and/or *enclosure* is not in conformance with the provisions of this By-law, the *owner* or their *agent* shall, in addition to complying with Section 4., remedy the *construction* as necessary, and re-schedule for an inspection by an *officer*, prior to the *pool* being filled with any water.

8.4 Upon the inspection required in Section 8.1., if the *officer* has deemed the *pool* and *enclosure* to be in conformance with the provisions of this By-law, the *Chief Building Official* or the *officer* shall notify the *owner* or their *agent* of completion of the *permit*.

9. ENCLOSURE SPECIFICATIONS

- 9.1. Except as provided by section 5.2, 5.3, and 9.3 every *pool* or *hot tub* shall be provided with *enclosure* complying with the following criteria;
 - 9.1.1. Shall have a minimum height of 1.5 m (4 ft 11 in) above adjacent grade measured on the outside perimeter of the *enclosure*;
 - 9.1.2. Shall be a *board fence*, *chain link fence*, or other suitable design, and be non-climbable;
 - 9.1.3. Shall have no openings under or in the *enclosure* that will allow the passage of a 100 mm (4 in) diameter sphere, except as noted otherwise;
 - 9.1.4. No attachment or object that can facilitate climbing shall be fastened or placed on the exterior face of the *enclosure* between 140 mm and 900 mm, measured from the *grade*;
 - 9.1.5. Any door, gate, or other access opening, other than a door directly to a dwelling that forms part of the *enclosure*, shall be self-closing, self latching and lockable, with the self-latching and lockable hardware installed no lower than a height of 1.35 m (4 ft 5 in); and,
 - 9.1.6. Be structurally adequate and durable for the intended use.
- 9.2. A *pool* or *hot tub* need not be provided with an enclosure where;
 - 9.2.1. The *pool* or *hot tub* has an above *grade* sidewall height of at least 1.5 m (4 ft 11 in) around the outside perimeter of the *pool* or *hot tub*;
 - 9.2.2. The sidewalls in (9.3.1.) shall be vertical, smooth, and have no horizontal projections, or any other projections that will facilitate climbing;
 - 9.2.3. Any ladder providing access to the *pool* or *hot tub* shall be removed when not in use;
 - 9.2.4. Any deck, floor, or platform that is adjacent to the *pool*, and/or provides access to the *pool*, shall have a minimum height of 1.5 m (4 ft 11 in) that is considered non-climbable around its entire perimeter, with no openings that will allow the passage of a 100 mm (4 in) diameter sphere.
- 9.3. Barbed wire or fencing energized by electrical current, sharp projections or any other dangerous characteristics shall not be used as an *enclosure*.

10. ZONING, GRADING AND DRAINAGE REQUIREMENTS

- 10.1. All *pools* and *hot tubs* shall be located as per the *Municipality's Zoning By-law*.
- 10.2. Grading and Drainage to be in conformance with;
 - 10.2.1. The Protection of Grading and Drainage Features By-law, or
 - 10.2.2. The subdivision agreement, if applicable.

11. COMPLIANCE

- 11.1. An *Officer* may enter onto any lands at any reasonable time for the purpose of determining compliance with this By-law or with an Order issued pursuant to this By-law.
- 11.2. Where an *enclosure* or *pool* is not *constructed* or maintained in accordance with the provisions of this By-law, or where a person is in contravention with this By-law, the *Chief Building Official* or an *officer* may make an order requiring a person to discontinue the contravening activity, and/or requiring the person to carry out such work or *construction* as may be required to bring the *enclosure* and *pool* into conformance with the requirements of this By-law.
- 11.3. An order made under Section 11.2. shall specify the person(s) to which the order is made, the date(s) by which there must be compliance with the order, and the order shall either be served personally to the person(s), emailed to their last known email address, or sent by registered mail to their last known address, and where the order is made on a person who is not the *owner*, a copy of the order shall be served on the *owner*.
- 11.4. Where an order made under Section 11.2. has not been complied with, the *Chief Building Official* may cause the work or *construction* required by the order to be done, and the cost of the work shall be at the expense of the *owner*.
- 11.5. The *Municipality* may recover the costs of effecting compliance with an order made under Section 11.2. by action or by adding the costs to the tax roll and collecting them in like manner as municipal taxes.

12. OFFENCES AND PENALTIES

- 12.1. Every person who contravenes any of the provisions of this By-law is guilty of an offence

- 12.2. Every person who is convicted of an offence is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended.
- 12.3. When a person has been convicted of an offence under this By-law, The Ontario Court of Justice or any court of competent jurisdiction thereafter, may, in addition to any penalty imposed on the person convicted, issue an order prohibiting the continuation of repetition of the offence by the person convicted.

13. TRANSITION, REPEAL AND ENACTMENT

- 13.1. A *permit* issued or continued under a previous By-law respecting *pools* and/or *enclosures*, as amended, is hereby continued and remains in force and shall be deemed to be issued under this By-law for regulatory and enforcement purposes, provided that the *enclosure* and/or *pool* in question was lawfully *constructed* in conformity with the provisions of the By-law that was in effect on the day the *permit* was issued, and is maintained in good repair on the date of enactment of this By-law.
- 13.2. By-law No. 19-41 is hereby repealed.
- 13.3. This By-law shall come into force and take effect upon the passing thereof.

BY-LAW read, passed, signed and sealed in open Council this 9th day of June 2026.

Christa Lowry, Mayor

Jeanne Harfield, Clerk