THE CORPORATION OF THE TOWN OF DEEP RIVER

BY-LAW NUMBER 28-2026

A BY-LAW TO REGULATE THE ERECTION AND MAINTENANCE OF FENCES AND ENCLSOURES AROUND PRIVATELY OWNED OUTDOOR SWIMMING POOLS IN DEEP RIVER

WHEREAS under the *Municipal Act*, R.S.O. 1990, Chapter M. 45, Section 210 (30), By-Laws may be passed by the Councils of local municipalities for requiring and regulating fences around privately-owned outdoor swimming pools;

NOW THEREFORE the Council of the Corporation of the Town of Deep River ENACTS AS FOLLOWS:

1 **DEFINITIONS** in this By-Law:

1.1 **"Enclosure"** means a fence, wall or other structure, including doors and gates therein, which surrounds a privately-owned outdoor swimming pool and restricts access thereto.

1.2 **"Privately-owned outdoor swimming pool"** means any body of water located outdoors on privately-owned property, contained partly or wholly by artificial means, in which the depth of water can exceed 0.6 metres and which is used or capable of being used for swimming, bathing, or wading, including but not limited to:

a) **"Inground or semi-inground pool"** means a swimming pool that is partially or completely buried under the ground surface;

b) **"Aboveground pool"** means a hard-sided swimming pool installed permanently on the ground surface;

c) **"Portable pool"** means a soft-sided swimming pool, inflatable or not, designed to be installed on a temporary basis;

1.3 **"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'

1.4 **"Service entrance"** means that entrance into a building which would normally be used by persons entering such building for the purpose of delivering goods or rendering maintenance service.

1.5 **"Owner"** includes a person in possession of the property on which a swimming pool is located.

1.6 **"Permit"** means permission or authorization in writing from the Chief Building Official to perform work regulated by this By-Law.

1.7 **"Set of Plans and Specifications"** means all of the following:

1.7.1 site plan
1.7.2 pool specifications including type
1.7.3 fence and gate construction specifications.

2 Swimming Pool Enclosure Permits

2.1 No person shall erect an enclosure until a set of plans and specifications for such enclosure have been submitted to the Chief Building Official, the appropriate permit fee has been paid to the municipality, and a permit certifying approval of such plans and specifications has been issued.

2.2 No person shall excavate for or erect a privately-owned outdoor swimming pool unless a permit for the enclosure of such pool has been issued.

2.3 Notwithstanding section 3.12 below, no person shall install an aboveground pool with a wall height of 1.2 m or more, or a portable pool with a wall height of 1.4 m or more, unless a permit has been issued confirming compliance with this By-Law.

2.4 No person shall place water in a privately-owned outdoor swimming pool or allow water to remain therein unless an enclosure has been erected in accordance with this By-Law.

2.5 The permit fee for an enclosure shall be $30.00.

2.6 The Chief Building Official may refuse to issue a permit if the enclosure proposed does not comply with any other By-Law of the Town of Deep River.

3 Swimming Pool Enclosures

3.1 The owner of every privately-owned outdoor swimming pool shall erect and maintain an enclosure surrounding the entire swimming pool area in accordance with this By-Law.

3.2 Except as further provided in section 3 8, every enclosure, including gates therein, shall extend from the ground to a height, measured from the grade at the base of the fence on the outside of the enclosure, of not less than 1.2 metres at all points around the enclosure.

3.3 When a wall of a building forms part of such enclosure, no main or service entrance to the building shall be located within the swimming pool area enclosure, except that this requirement shall not apply when the main entrance and all exterior service meters and intakes are located outside the enclosure and a sign is erected and maintained directing all service personnel to use the main entrance.

3.4 A hedge or bushes do not constitute an enclosure under this By-Law.

3.5 Except as provided in 3.6.4. no enclosure shall have rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.

3.6 An enclosure shall be of vertically boarded wood construction, chain link construction, or of other materials and construction as provided for in section 3.6.3.

3.6.1 If of chain link construction, an enclosure shall:

3.6.1.1 Be of not greater than 3.8 cm diamond mesh;

3.6.1.2 Be constructed of galvanized steel wire no less than No. 12 gauge, or of minimum 14-gauge steel wire covered with a vinyl or other approved coating forming a total thickness equivalent to No. 12 gauge galvanized wire; and

Bbe supported by a least 3.8 cm diameter galvanized steel posts each covered by a minimum of 5 cm of concrete from grade to a minimum of 0.6 metres below grade, such posts to be spaced not more than 3 metres apart. Top and bottom horizontal rails shall be provided of 3.2 cm minimum diameter galvanized pipe, but steel tension rod may be substituted for the bottom horizontal steel rail. A vinyl or other approved coating may be substituted for the galvanized coating;

3.6.2 If of wood construction, an enclosure shall:

3.6.2.2 Have vertical boards attached to supporting members all of which are arranged in such a manner so as not to facilitate climbing from the outside. Such vertical boards shall not be less than one-inch by four-inch nominal dimensions spaced not more than 3.8 cm apart;

3.6.2.3 Be supported by a minimum of four-inch square or four-inch diameter cedar posts, nominal dimensions, spaced not more than 2.4 metres on centre and securely embedded to a minimum of 0.6 metres below grade. That portion of the wood post below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood two-inch by four-inch minimum nominal dimensions;

3.6.3 An enclosure may be of construction other than that specified in Section 3.6.1 and 3.6.2. provided that an equivalent degree of safety is maintained in the opinion of the Chief Building Official, and that the enclosure is constructed so that its rigidity is equal to that specified for those enclosures described in section 3.6.1 and 3.6.2.

3.6.4 An enclosure constructed other than as specified in Sections 3.6.1 or 3.6.2 may have rails or other horizontal or diagonal bracing or attachments on the outside that might facilitate climbing the outside of the enclosure, provided that the minimum clear vertical distance between any two such parts is 1.2 metres.

3.7 No enclosure shall include any barbed wire or part having similar dangerous characteristics, nor any device for transmitting an electric current through the enclosure.

3.8 No enclosure shall be located closer than 1.2 metres to any structure or condition on the property or on any adjacent property that would facilitate climbing of the enclosure.

3.9 Every enclosure shall be located not less than 1.2 metres from the swimming pool, unless the minimum height of the enclosure is 1.6 metres and a continuous hand-hold is available along the edges of the pool for the purpose of providing, in an emergency, support for a person in the pool area.

3.10 Gates forming part of an enclosure shall:

3.10.1 Be of construction and height equivalent to that required for the enclosure;
3.10.2 Be supported on substantial hinges, and
3.10.3 Be self-closing and equipped with a locking device and with a self-latching device placed at the top and on the inside of the gate such that the device latches when the gate is in the closed position.

3.11 Doors providing access from a building directly to an enclosed pool area, other than doors located in a dwelling unit or a rooming unit, shall each be self- closing and equipped with a locking device and a self- latching device located not less than 1.5 metres above the bottom of the door.

3.12 The owner of every privately-owned outdoor swimming pool shall ensure that every gate or door required by sections 3.9 or 3.10 to be equipped with a locking device shall be kept locked at all times if there is more than twenty-four inches of water in the pool and a responsible person is not present and supervising the pool.

3.13 Every device linked to the operation of the swimming pool must be installed more than 1.2 m from the pool wall or, as the case may be, the enclosure.

a) The pipes linking the device to the swimming pool must be flexible and not be installed in a way that facilitates the climbing of the pool wall or, as the case may be, the enclosure.

b) Despite a) above, a device may be less than 1.2 m from the swimming pool or enclosure if it is installed:

i. inside an enclosure having the features described in sections 4 and 5;
ii. under a structure that prevents access to the swimming pool from the device and that has the features described in subparagraphs 2 and 3 of the first paragraph of section 4; or
iii. in a shed.

3.14 A structure or fixed equipment likely to be used for climbing over the wall or the enclosure must also be installed at more than 1.2 m from the pool wall or, as the case may be, the enclosure. That minimum distance applies to a window situated less than 3 m from the ground, except if its maximum opening does not allow the passage of a spherical object more than 10 cm in diameter.

3.15 Notwithstanding the foregoing, an aboveground pool with a wall height of at least 1.2 m from the ground at all points or a portable pool with a wall height of 1.4 m or more, is not required to be surrounded by an enclosure if:

a) access to the pool is by:

i. A ladder equipped with a self-closing and self-latching safety gate preventing its use by children;
ii. A ladder or a platform access to which is protected by an enclosure that complies with the enclosure requirements of this by-law; or
iii. A patio attached to the residence and laid out so that the part giving access to the swimming pool is protected by an enclosure that complies with the enclosure requirements of this by-law.

b) The vertical walls of the aboveground pool do not include any horizontal members or features that may facilitate climbing.

4 <u>Requirements for Hot Tubs, Whirlpools, and Spas</u>

4.1 No person shall fail to construct and maintain an enclosure surrounding a hot tub that complies with this By-Law, unless the hot tub is provided with a safety cover that meets the requirements of this By-Law.

4.2 A safety cover shall be deemed to be an enclosure in compliance with this By-Law where the hot tub is equipped with a substantial and structurally adequate cover capable of supporting a minimum load of 90kg, or that complies with *ASTM F1346-*

91, Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers of Swimming Pools, Spas, and Hot Tubs as amended, and the safety cover is permanently attached to the hot tub or its supporting structure.

4.3 No person shall leave a hot tub unoccupied without first ensuring that the safety cover is securely fastened and locked at all times when the hot tub is not in use.

5 Enforcement

5.1 This By-Law may be enforced by every building inspector and by every municipal Law Enforcement Officer.

5.2 An Officer may enter onto any lands at any reasonable time for the purposes of determining compliance with this by-law or with an Order issued pursuant to this By-Law.

5.3 An Officer may, for the purposes of an inspection under section 5.2:

c) Require the production of documents or things relevant to the inspection;
d) Inspect and remove documents or things relevant to the inspection for the purposes of making copies or extracts; and
e) Require information from any person concerning a matter related to the inspection.

5.4 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-Law.

5.5 It is an offence for a person to contravene any provision of this By-Law, and every person who contravenes this By-Law is guilty of an offense, and upon conviction, is liable to a fine in accordance with the provisions of the *Provincial Offenses Act* and to any other applicable penalty.

5.6 The conviction of a person for the contravention of any provision of this By-Law shall not operate as a bar to the prosecution against the same person for any subsequent or continued contravention of this By-Law.

6 SEVERABILITY

6.1 Each provision of this By-Law is independent of all other provisions and if any provision of this By-Law is declared invalid for any reason, all other provisions of this By-Law shall remain valid and enforceable.

7 Repeal of previous By—law

By-law 29-92 is hereby repealed.

8 **Enactment**

This By-law comes into force upon adoption by Council of the Corporation of the Town of Deep River.

READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED THIS 24TH DAY OF JUNE, 2026.

Suzanne D' Eon, MAYOR

Jackie Mellon, CLERK

By signing this By-Law on June 24, 2026 Mayor D'Eon will not exercise the power to veto this By-Law.