



**BY-LAW NO. 2020-076**

**A BY-LAW OF THE CORPORATION OF THE TOWN OF  
BRACEBRIDGE TO REGULATE THE PROTECTIVE  
ENCLOSURE OF PRIVATELY OWNED OUTDOOR POOLS  
IN THE TOWN OF BRACEBRIDGE**

WHEREAS Section 8 of the Municipal Act, S.O. 2001, (hereinafter referred to as the "Municipal Act") provides that the powers of a municipality under the Municipal Act or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS Section 11 of the Municipal Act provides that a lower-tier municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein including, among other things, fences;

AND WHEREAS Section 391 of the Municipal Act authorizes a municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS pursuant to Section 425 of the Municipal Act, a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND WHEREAS pursuant to Section 426 of the Municipal Act, no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under this Act;

AND WHEREAS pursuant to Section 436 of the Municipal Act, the municipality may enter upon any land at any reasonable time for the purpose of carrying out an inspection to determine compliance with this by-law;

AND WHEREAS pursuant to Section 446(1) of the Municipal Act, a municipality may direct or require a person to do a matter or thing and that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS pursuant to Section 446(3) of the Municipal Act, a municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS by motion 08-DS-027, the Council of The Corporation of the Town of Bracebridge deemed it expedient enact a by-law to regulate the protective enclosure of privately owned outdoor pools in the Town of Bracebridge and enacted By-law 2008-047 on May 7, 2008;

AND WHEREAS by motion 20-PD-074 the Council of The Corporation of the Town of Bracebridge deems it expedient to amend By-law 2008-047 and pass a new by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF BRACEBRIDGE ENACTS AS FOLLOWS:

**1. SHORT TITLE**

- 1.1 This By-law may be referred to as the Pool Enclosure By-law.

**2. DEFINITIONS**

- 2.1 **Adjacent** means lots sharing a common boundary.
- 2.2 **Building** means a structure having a roof supported by columns or walls or supported directly on the foundation and used for the shelter or accommodation of persons, animals or goods.
- 2.3 **Chief Building Official** means the person appointed by Council as the Chief Building Official of The Corporation of the Town of Bracebridge, or his/her designate.
- 2.4 **Erect** includes the alteration, construction, placement, relocation and any installation of any pool enclosure or portion thereof.
- 2.5 **Fence** means any wall, barrier or free standing barricade, other than a building, which has been erected as a means to enclose, separate, provide privacy or divide, in whole or in part, a property, yard or other land. The Town does not include a retaining wall in the definition of a fence.
- 2.6 **Gate** means any swinging or sliding barrier used to fill in or close an access in a pool enclosure.
- 2.7 **Grade** means the average elevation of the finished surface of the ground adjoining a pool enclosure, exclusive of any artificial embankments or berms.
- 2.8 **Hazardous Material** means any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance and, for the purposes of this By-law, includes, but is not limited to, the following materials: razor wire, barbed wire or any other sharp projections attached to a pool enclosure, or electrical fences carrying a voltage of more than 12 Volts.
- 2.9 **Height** means the vertical distance from grade to the top of the pool enclosure or, if a reference point other than grade is specified, the vertical distance above the other reference point.
- 2.10 **Lot** means:
- 2.10.1 A parcel of land:
- i. The whole of which can be legally conveyed without approval pursuant to the Planning Act, as amended; and
  - ii. No part of which can be transferred without such an approval; and
  - iii. Which is not described in a registered condominium description; or

2.10.2 Two or more parcels of land that are:

- i. Deemed to be one lot by the Town's Zoning By-law 2006-120, as amended; or
- ii. Required to be transferred together by agreement made pursuant to the Planning Act, as amended; or

2.10.3 The whole of a parcel of land described in a description registered under section 2 of the Condominium Act, 1998, S.O. 1998, c. 19, except:

- i. In a vacant land condominium, a unit shall be deemed to be one lot; and
- ii. In the case of a resort commercial land use that includes associated accommodation units within one or more condominium descriptions that share central management and resort amenities on one contiguous area of land, the entire land area of the resort commercial establishment shall be deemed to be one lot.

2.11 **Lot Line** means the boundary of a lot or its vertical projection.

2.12 **Natural Body of Water** means a creek, stream, bog, marsh, fenn, river, pond or lake created by the natural forces of nature and which contains water and includes ponds maintained on lands where an active golf course, cemetery or agricultural use is carried on, whether naturally occurring or manufactured.

2.13 **Non-Residential Property** means all lands that are not included in the residential property definition.

2.14 **Owner** means the person who holds registered title to a piece of property and includes a trustee acting on behalf of the registered owner, the estate of a registered owner, a person with a leasehold interest in the land or the duly authorized agent of any such owner. Such agents include all persons involved in the installation of, excavation for, or erection of a fence.

2.15 **Permit** means a permit issued under this By-law.

2.16 **Person** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee and includes the heirs, executors or other legal representatives of that person.

2.17 **Planning Act** means The Planning Act, R.S.O. 1990, c. P.12.

2.18 **Pool** means a privately owned outdoor body of water:

2.18.1 In a container that is:

- i. Artificial, manufactured or assembled; and
- ii. Capable of retaining water measuring more than 0.61 metres in depth at any point; and
- iii. Capable of being used for swimming, bathing, diving or wading; and

2.18.2 That includes:

- i. Above-ground, on-ground and in-ground manufactured pools; or
- ii. Custom built pools; or
- iii. Inflatable pools consisting of an air supported structure; or
- iv. Hydro massage pools (spa, Jacuzzi, whirlpool or hot tub); and

2.18.3 That does not include:

- i. Irrigation ponds on farms used for watering livestock or for use in irrigation; or
- ii. Irrigation ponds on golf course operations used for irrigation; or
- iii. Naturally formed depressions in the ground's surface; or
- iv. A natural body of water; or
- v. Garden ponds, fish ponds, decorative ponds or similar such ponds used as landscaping features with plant materials grown in and around the pond; or
- vi. Public pools as defined and regulated by the Building Code Act, 1992, S.O. 1992, c. 23; or
- vii. Storm water management facilities.

2.19 **Public Authorities** mean any federal, provincial, district or municipal agencies and any commissions, boards, authorities, or departments established by such agencies.

2.20 **Pool Enclosure** means a fence, wall or other structure including doors, gates and hardware used to completely enclose a pool.

2.21 **Pool Enclosure Gate** means any swinging or sliding barrier used to fill in or close an access to a pool enclosure.

2.22 **Residential Property** means any land zoned Residential R1, R2, R3, R4, SR1, SR2, SR3, Rural Residential, including any variations of these zones, and includes a Rural Zone and any variations of a Rural Zone where there is an existing detached dwelling unit or where one is being proposed in accordance with the Town's Zoning By-law 2006-120, as amended.

- 2.23 **Self-Closing** means a mechanical device or spring, which returns a pool enclosure gate to its closed position within 30 (thirty) seconds after it has been opened.
- 2.24 **Self-Latching** means a mechanical device or latch installed at the top and on the inside of the pool gate and which is engaged each time the gate is secured to its closed position, which will not allow the gate to be re-opened by pushing or pulling and which will ensure the pool enclosure gate remains closed until unlatched by either lifting or turning the device itself, directly or by key.
- 2.25 **Sight Triangle** means a triangular area formed within a corner lot by the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them 7.62 metres from their point of intersection. Where the two street lines do not intersect at a point, the point of intersection of the two street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangent to the street lines.
- 2.26 **Storm Water Management Facilities** mean, in the context of this By-law, engineered pond facilities owned and/or approved by the Town, that are designed and erected to contain, treat and release storm water run-off from urban areas.
- 2.27 **Street** means a public thoroughfare for vehicular and/or pedestrian traffic, which is assumed and maintained by or under the jurisdiction of the Province of Ontario, District Municipality of Muskoka or the Town and, for the purposes of this By-law, includes a private lane or vehicular right-of-way.
- 2.28 **Structure** means anything that is erected, built or constructed or parts joined together and permanently located on or in the ground or attached to any other structure permanently located on or in the ground. Structural development shall include new buildings, additions, enlargements, septic tanks and tile fields.
- 2.29 **Town** means the Corporation of the Town of Bracebridge.
- 2.30 **Yard** means a space accessory to a building or structure located on the same lot as the building or structure and which is open, uncovered and unoccupied from the ground to the sky except for such accessory buildings, structures or uses as are permitted elsewhere in the Town's Zoning By-law 2006 -120. More specifically:
- 2.30.1 **Front Yard** - means the portion of the lot extending across the full width of the lot between the front lot line and the nearest wall of any building or structure on the lot for which there is a required yard.
- 2.29.2 **Rear Yard** - means that portion of the lot extending across the full width of the lot between the rear lot line and the nearest wall of any building or structure on the lot for which there is a required yard.
- 2.30.2 **Required Yard** - means the minimum yard required by the provisions of the Town's Zoning By-law 2006-120, as amended.
- 2.30.3 **Side Yard** - means that portion of the lot extending from the front yard to the rear yard between the side lot line and the nearest wall of any main building on the lot for which there is a required yard.

### **3. INTERPRETATION**

- 3.1 In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context so requires.

### **4. APPLICATION OF THE BY-LAW**

- 4.1 In the event of any conflict between the provisions of this By-law and any provisions of the Planning Act, as amended, and/or the Town's Zoning By-law 2006-120, as amended, as they may relate to pool enclosures, the provisions of those by-laws shall prevail over the provisions of this By-law.
- 4.2 The provisions of this By-law do not apply to pool enclosure provisions contained in site plans or site plan agreements which, before the day of the enactment of this By-law, were approved or executed by the Town under the provisions of the Planning Act, as amended.

### **5. AUTHORITY**

- 5.1 The Chief Building Official shall be responsible for the administration and enforcement of this By-law.

### **6. GENERAL PROVISIONS**

- 6.1 No person shall excavate or erect, or cause to be excavated or erected, a pool in the Town until a pool enclosure permit has been applied for and issued in accordance with the provisions of this by-law.
- 6.2 Every owner of land in the Town upon which a privately owned pool is located or erected shall erect and maintain a pool enclosure surrounding the entire pool area in accordance with the provisions of this By-law.
- 6.3 No person shall erect, or cause to be erected, a pool enclosure of a pool area in the Town that is located less than 1.22 metres from the inside edge of the pool.
- 6.4 No person shall erect, or cause to be erected, in the Town a pool deck or ramp, or part thereof, located at a height greater than or equal to 1.83 metres above grade unless a handrail or balustrade is provided and maintained around the outer edge, at a height of at least 1.07 metres above such deck or ramp. Alternatively, where a pool deck or ramp, or part thereof, is located at a height between 1.22 metres and less than 1.83 metres above grade, a handrail or balustrade shall be provided and maintained around the outer edge, at a height of at least 0.91 metres above such deck or ramp. The vertical members of such handrails or balustrades shall be no wider than 0.10 metres.
- 6.5 No person shall erect, or cause to be erected, a pool enclosure in the Town with a space greater than 0.05 metres between the bottom of any chain link pool enclosure and/or gate and the finished grade beneath such fencing and/or gate.
- 6.6 No person shall erect, or cause to be erected, a pool enclosure in the Town with a space greater than 0.10 metres between the bottom of any solid panel, vertical board, vertical picket, wrought iron or other metal pool enclosures and/or gate and the finished grade beneath such fencing and/or gate.

- 6.7 No person shall place, pile, attach or lean any object or material against or near a pool enclosure so as to facilitate climbing of the pool enclosure, diminish the structural integrity of a pool enclosure or render the pool enclosure in non-conformity with the provisions of this by-law.
- 6.8 No person shall erect, or cause the erection of, a pool enclosure without the finished side being presented on the exterior surface.
- 6.9 No person shall erect, or cause to be erected, a pool enclosure within any sight triangle in the Town.

## **7. TEMPORARY POOL ENCLOSURES, PERMANENT POOL ENCLOSURES AND PLACEMENT OF WATER IN A POOL**

- 7.1 No person shall erect, or cause to be erected, an in-ground pool without ensuring that during the pool erection, a temporary pool enclosure encircles the pool at all times until such time as water is emplaced and maintained in the pool to ensure and prevent unauthorized access to the pool until a permanent pool enclosure permit is obtained.
- 7.2 No person shall erect, or cause to be erected, an in-ground pool unless a temporary pool enclosure consisting of a 1.22 metre high fence with mesh openings no larger than 0.04 metres with steel embedded T-bar posts a maximum of 3.05 metres apart. Nine (9) gauge galvanized steel tension wire shall be located at the top and bottom of the temporary pool enclosure, if required.
- 7.3 No person shall use and maintain the use of a temporary pool enclosure for any time in excess of fourteen (14) days.
- 7.4 No person shall remove the temporary pool enclosure until the Chief Building Official has inspected and approved a permanent pool enclosure.
- 7.5 No person shall place water in or allow water to remain in any in-ground pool until such time as a temporary pool enclosure has been inspected and/or permanent pool enclosures and gates have been approved and installed in accordance with the requirements of this By-law with the exception of above-ground pools that meet the exemption requirements of section 10 herein;
- 7.6 Any above-ground pool that is less than 1.22 metres in height shall meet the provisions set out in section 6.3.1 or meet the pool enclosure requirements as set out in Section 9.

## **8. HAZARDOUS MATERIALS**

- 8.1 No person shall install or erect, or cause to be installed or erected, the use of hazardous materials in, around or on a pool enclosure or gate including, but not limited to, razor wire, barbed wire, electrical fences or any other sharp projections attached to a pool enclosure or gate.

## **9. POOL ENCLOSURE REQUIREMENTS**

- 9.1 Every pool located on land used for, or in connection with, a residential property or non-residential property shall be enclosed with pool enclosures, including gates as per section 11 herein, in accordance with one or more of the following specifications:

## 9.2 Chain Link Fencing

- 9.2.1 Chain link fencing shall extend from the ground for a height of not less than 1.22 metres and not more than 2.44 metres in height with links not exceeding 0.04 metres.
- 9.2.2 Chain link fencing shall have the top rail securely fastened to the upright posts and a tension wire securing the bottom of the fencing and shall be no higher than 0.05 metres above grade.

Refer to Schedule "A" relating to Sections 9.2.1 and 9.2.2.

## 9.3 Solid Panel, Vertical Board or Vertical Picket Fencing (with horizontal rails less than 1.22 metres apart)

- 9.3.1 Fencing of solid panels, vertical boards or vertical pickets being at least 1.22 metres in height to a maximum 2.44 metres in height and having the horizontal rails less than 1.22 metres apart, may not have openings between the panels, vertical boards or vertical pickets exceeding 0.04 metres on the face of the fence.
- 9.3.2 The height between the bottom of the fence and the grade of solid panel, vertical board or vertical picket fences, having the horizontal rails less than 1.22 metres apart will be no greater than 0.10 metres.
- 9.3.3 Solid panel, vertical board or vertical picket fences, having the horizontal rails less than 1.22 metres apart shall be erected and finished in such a manner so as to present a finished side towards the traveled street and/or neighbouring properties, at a minimum, to minimize the ability to climb the outside of the pool enclosure and prevent unauthorized access to the pool area.

Refer to Schedule "B" relating to Sections 9.3.1 to 9.3.3, inclusive.

## 9.4 Solid Panel, Vertical Board or Vertical Picket Fencing (with horizontal rails more than 1.22 metres apart)

- 9.4.1 Fencing of solid panels, vertical boards or vertical pickets being at least 1.22 metres in height to a maximum of 2.44 metres in height and having the horizontal rails more than 1.22 metres apart, may not have openings between the panels, vertical boards or pickets exceeding 0.05 metres on the face of the fence.
- 9.4.2 The height between the bottom of the fence and the grade of solid panels, vertical boards or vertical picket fences, having the horizontal rails more than 1.22 metres apart will be no greater than 0.10 metres.
- 9.4.3 Solid panel, vertical board or vertical picket fences, having the horizontal rails more than 1.22 metres apart shall be erected and finished in such a manner so as to present a finished side towards the traveled street and/or neighbouring properties, at a minimum, to minimize the ability to climb the outside of the pool enclosure and prevent unauthorized access to the pool area.

Refer to Schedule "C" relating to Sections 9.4.1 to 9.4.3, inclusive.

**9.5 Wrought Iron or Other Metal-type Fencing**

9.5.1 Wrought iron or other metal-type fencing shall extend from the ground for a height of not less than 1.22 metres and not more than 2.44 metres in height, with horizontal rails more than 1.22 metres apart.

9.5.2 The openings between the vertical members shall not exceed 0.10 metres.

9.5.3 The height between the bottom of the fence and the grade of wrought iron or other metal-type fencing will be no greater than 0.10 metres.

Refer to Schedule "D" relating to Sections 9.5.1 to 9.5.3, inclusive.

**9.6 Walls as Fences**

9.6.1 A wall, or one or more walls, of a building may act as fencing provided the said wall is at least 1.22 metres in height, measured vertically from grade.

9.6.2 The wall that is acting as a fence shall not have a ledge or step closer than 1.22 metres to the inside edge of the pool.

9.6.3 If any wall of a building is acting as a fence and contains any opening which could provide a means of ingress directly into the pool area, such openings are to be kept locked at all times and any openings into the pool area shall have a lockable device a minimum height of 1.68 metres above grade to prevent unsupervised entry into the pool area except when the pool is in use by the owner or the owner's duly authorized agent.

Refer to Schedule "E" relating to Sections 9.6.1 to 9.6.3, inclusive.

**10. ABOVE-GROUND POOL EXCEPTIONS**

10.1 Notwithstanding the foregoing pool enclosure requirements found in Section 9, such fencing requirements shall not apply where:

10.1.1 An above-ground pool is fully surrounded by deck that is at least 1.22 metres in height above grade and the support structure of said deck does not facilitate climbing; or

10.1.2 An above-ground pool has a finished sidewall height of not less than 1.83 metres above grade and the finished sidewall does not facilitate climbing.

10.1.3 A hydro-massage pool (spa, Jacuzzi, whirlpool or hot tub) has met the following requirements:

i. The hydro-massage pool is equipped with a substantial cover, capable of holding 90.72 kg. (200 lbs.), which is permanently affixed to the structure and which is locked to prevent access to the hydro-massage pool when it is not in use; or

ii. The requirements of section 10.1.1 or 10.1.2 have been met.

- 10.2 Any steps or ladders, fixed or movable, providing access to the deck surrounding an above-ground pool or directly into the above-ground pool or into a hydro-massage pool shall be fenced at grade and kept locked or such steps or ladders, fixed or movable, shall be in a raised position and kept locked at all times except when the pool is in use by the owner or the owner's duly authorized agent.

## **11. GATES**

- 11.1 Every gate shall meet this By-law's requirements as set out in Sections 9 and 10.
- 11.2 Every gate on a pool enclosure shall be supported by substantial hinges and be equipped with an approved self-closing device and self-latching device. The self-latching device is to be installed on the poolside at the top of the gate. Every gate shall be locked or latched at all times except when the pool is in use by the owner or the owner's duly authorized agent.
- 11.3 Where double gates are used, substantial hinges shall support both sections and one section shall be equipped with an approved self-closing device and self-latching device. The self-latching device is to be installed on the poolside at the top of the gate. The remaining section of the gate is to be equipped with a ground pin and lock to mechanically secure that section of the gate. Both sections of the gate shall be locked or latched at all times except when the pool is in use by the owner or the owner's duly authorized agent.
- 11.4 The maximum spacing between vertical panels, boards or pickets on the outside face of a gate having a diagonal member shall not exceed 0.04 metres. Where a diagonal member exists, vertical panels, boards or pickets must be placed on the outside face of a gate or fence or part thereof.

## **12. PERMITS**

- 12.1 Chief Building Official Plans Approval
- 12.1.1 The owner of lands upon which it is intended to erect a pool shall apply to the Chief Building Official for a permit certifying approval of such pool enclosures and gates. Plans for all such pool enclosures and gates shall be submitted with the application and no permit shall be issued unless the pool enclosures and gates shown on such plans comply with the provisions of all applicable by-laws of the Town.
- 12.1.2 No permit shall be issued unless the pool location is in compliance with all provisions of this By-law, the Town's Zoning By-laws, relevant agreements with the Town and approvals from any other public authorities, where required.
- 12.2 Permit Fees Schedule
- 12.2.1 The owner shall pay a fee for the pool enclosure permit in accordance with the Town's Fees By-law, as amended annually. The fee pursuant to this By-law shall be payable upon application for the permit.
- 12.2.2 Every application shall be in writing accompanied by the applicable fee with the following supporting documentation:
- i. Address of the subject property and legal description;
  - ii. Disclosure of whether the pool enclosure permit is for an in-ground, on-ground, above-ground or a hydro-massage pool;

- iii. The name, e-mail address, municipal address, and telephone number of the owner and name, e-mail address, municipal address, and telephone number of the agent and/or contractor, if applicable;
- iv. A statement as to whether the proposed pool enclosure will be temporary or permanent;
- v. A signed declaration of the owner confirming that the information provided is true to the best of the owner's knowledge;
- vi. Two sets of specifications and two sets of a site plan indicating:
  - a. The proposed location of the pool and surrounding apron and its distance from lot lines, buildings and structures including all decks or sheds;
  - b. The location of all easements, rights-of-way(s), landscaping features, septic system features, wells, and walls;
  - c. The proposed location of pool equipment such as the filter, heater or pump; and
  - d. The type and height of fence to be erected and the location of all gates – a detailed construction plan of the fence may be required.

### 12.3 Notice of Change

- 12.3.1 No person shall make a change or cause a change to be made to a plan, specification, document or other information on the basis of which a permit was issued for a pool enclosure without notifying the Chief Building Official and filing details of such change for the purpose of obtaining a revised authorization.

### 12.4 Revocation of Permit

- 12.4.1 The Chief Building Official may revoke a pool enclosure permit where:

- i. It was issued on mistaken or false information;
- ii. After six-months after its issuance, the erection of the pool enclosure in respect of which it was issued has not, in the opinion of the Chief Building Official, been seriously commenced;
- iii. The erection of the pool enclosure is, in the opinion of the Chief Building Official, substantially suspended or discontinued for a period of more than one year.

- 12.4.2 Prior to revoking a permit in accordance with this By-law, the Chief Building Official shall give written notice of the Town's intention to revoke the permit of the owner at their last known address and, if on the expiration of thirty (30) days from the date of such notice, the grounds for the revocation continue to exist, the permit shall be revoked without further notice and the disposal of all submitted plans and other information shall occur unless, prior to the expiration of the thirty (30) days' notice, a written request by the owner is received that directs that such plans be returned, at the cost of the applicant.

## 12.5 Permit Expiry and Renewal

- 12.5.1 A permit issued pursuant to this By-law shall be valid for a period of six-months from the date of issue and shall remain valid so long as the work covered by the permit is commenced before the expiry of the six-month period and so long as the work is carried out at a reasonable rate to its completion, as determined by the Chief Building Official.
- 12.5.2 A permit may be renewed once more for an additional six-month period without the need for re-submitting the documents referred to herein, upon submitting a written request for renewal and payment of a renewal fee to the Town in accordance with the Town's Fees By-law, as amended annually, before the expiry of the initial six-month period and provided such permit would still be current and useable.
- 12.5.3 Where no written request for renewal is submitted to the Chief Building Official before the expiry of the six-month period, or where a permit has been renewed with work not commencing before the expiry of the renewed six-month period, the permit shall automatically lapse and a new application for a permit shall be required in accordance with the applicable fees.

## 12.6 Transfer of Permit

- 12.6.1 Permits are only transferable upon the completion of a new permit application form by the new owner in accordance with this section and subject to approval of the Chief Building Official who may attach additional conditions thereto.

## 12.7 Permit Refunds

- 12.7.1 Where a permit has not been acted upon and the owner returns it for cancellation prior to the commencement of the project and before such permit has expired, revoked or renewed, the owner shall be entitled to a refund not exceeding fifty percent (50%) of the permit fee paid.
- 12.7.2 Where the applicant for a permit cancels their application prior to the issuance of the permit, the Chief Building Official may retain an amount of not less than twenty-five percent (25%) of the permit fee payable if, in the Chief Building Official's opinion, such amount being retained is appropriate having regard for the approximate stage at which the application had been processed. Accordingly, the Town will refund the balance of the fees previously paid by the owner.

# 13. PLUMBING PERMITS

- 13.1 The owner of lands, or his agent, upon which it is intended to erect a pool, or upon which a pool is located, shall apply to the Chief Building Official and obtain from him, a plumbing permit before any direct connection between a pool and any water supply and a pool and any drain.

# 14. EXISTING POOL ENCLOSURES

- 14.1 A pool enclosure lawfully erected prior to the date of this by-law in accordance with the by-law existing at the time and still in place on the date of this by-law is deemed to comply with this by-law, so long as no substantial alteration to the pool enclosure is made, and it is not derelict, removed or destroyed.

- 14.2 If a pool enclosure as described in section 14.1 is altered, or becomes derelict, or is removed or destroyed, then if a pool exists within the enclosure, a pool enclosure shall be erected in compliance with the remainder of this by-law.

## **15. VALIDITY AND SEVERABILITY**

- 15.1 Every provision of this by-law is declared severable from the remainder and if any such provision of this by-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the by-law.

## **16. OFFENCES AND PENALTIES**

- 16.1 Every person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to a fine in accordance with the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.
- 16.2 Where an offence under this By-law is a continuing offence, charges may be laid for each day during which the offence occurs.
- 16.3 Where anything required to be done in accordance with this By-law is not done, the Chief Building Official may direct that the work be completed as directed by the Town, and recover the costs of doing so by adding the costs to the tax roll for the property on which the work was done or the actions were taken and collecting them in the same manner and with the same priority as municipal taxes.
- 16.4 Every person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Regional Senior Justice of the Ontario Court of Justice shall be requested to establish set fines in accordance with Schedule "G" of this by-law.

## **17. ADMINISTRATION AND ENFORCEMENT**

- 17.1 The Chief Building Official and/or their designate may, at all reasonable times, enter upon land for the purpose of carrying out an inspection, taking photographs and obtaining evidence to determine whether the property complies with this by-law and may be accompanied by other Town of Bracebridge employees/agents for this purpose.
- 17.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, the Chief Building Official or their designate or employee/agent of the Town of Bracebridge accompanying or acting under the direction of the Chief Building Official in exercising a power or performing a duty under this by-law. Any person who is alleged to have contravened any of the provisions of this by-law shall identify themselves upon request of the Chief Building Official or their designate. Failure to identify upon request shall be deemed as obstruction of the Chief Building Official and/or their designate.
- 17.3 Where the Chief Building Official and/or their designate has confirmed that a property is not maintained in accordance with the requirements of this by-law, the Chief Building Official and/or their designate may, in addition to verbally directing the owner to bring the property into compliance, serve the owner a notice in writing directing the owner to bring the property into compliance with the by-law requirements.
- 17.4 A written notice to the owner of a property may be served personally upon the owner of the property or sent by registered mail to the last known address of the owner according to the current assessment rolls. If sent by registered mail, the notice shall be deemed to have been served on the fifth day after mailing.

- 17.5 Where an owner, having been served with a notice in the manner described in section 17.4, fails to comply with the notice within the time specified, the Chief Building Official, Town of Bracebridge employee or agent may, upon producing appropriate identification when so requested, enter onto the property at a reasonable time and carry out any or all of the work required to bring the property into compliance with this by-law.
- 17.6 When the Chief Building Official and/or their designate deems a violation under this by-law to pose an immediate risk to public health or safety, the notice provisions contained in section 17.4 may be waived and an emergency notice shall be posted on the property requiring immediate action or other remediation. No owner shall fail to comply with an emergency order within the period of time specified on the emergency order.
- 17.7 Any items or materials removed from a property during work to remedy non-compliance as conducted by the Town or an agent of the Town may be immediately disposed of by the Town or the agent of the Town without further notice to the property owner.
- 17.8 Once served upon an owner in accordance with section 17.4, a notice shall remain in effect on a property for the duration of a calendar year and further notices to the owner for similar violations within the same calendar year are not required.
- 17.9 The Town assumes no liability for property damage or personal injury resulting from remedial action or work undertaken with respect to any person or property that is subject to this by-law.

**18. SCHEDULES AND TABLES**

- 18.1 Schedules "A", "B", "C", "D", "E", "F" and "G", attached hereto, hereby form part of this By-law.

**19. FORCE AND EFFECT**

- 19.1 This by-law shall come into force and effect on the date the set fines are approved by the Ontario Regional Senior Justice of the Ontario Court of Justice.

**20. REPEAL**

- 20.1 On the date this by-law comes into force and effect, By-law 2008-047 and any amendments thereto, shall be repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 16<sup>th</sup> DAY OF NOVEMBER 2020.

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Mayor, Graydon Smith

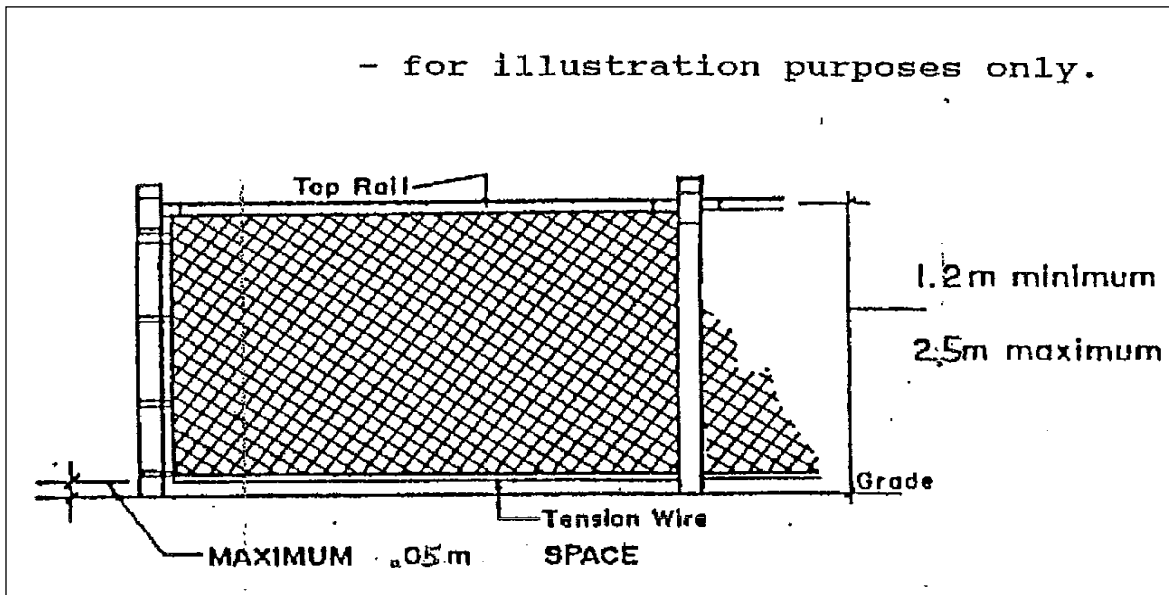
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Director of Corporate Services/Clerk,  
Lori McDonald

**SCHEDULE "A"****(Sections 9.2.1 and 9.2.2)****Pool Enclosure Requirements - Chain Link Fences**

| Chain Link Fencing                                                                                                                                                                 | Height                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Links shall not exceed 0.04 metres.                                                                                                                                                | Minimum height 1.22 metres to maximum height of 2.44 metres measured from grade. |
| All chain link fencing shall have a top rail securely fastened to the upright posts and a tension wire securing the bottom of the fencing, no greater than 0.05 metres from grade. |                                                                                  |

- for illustration purposes only.

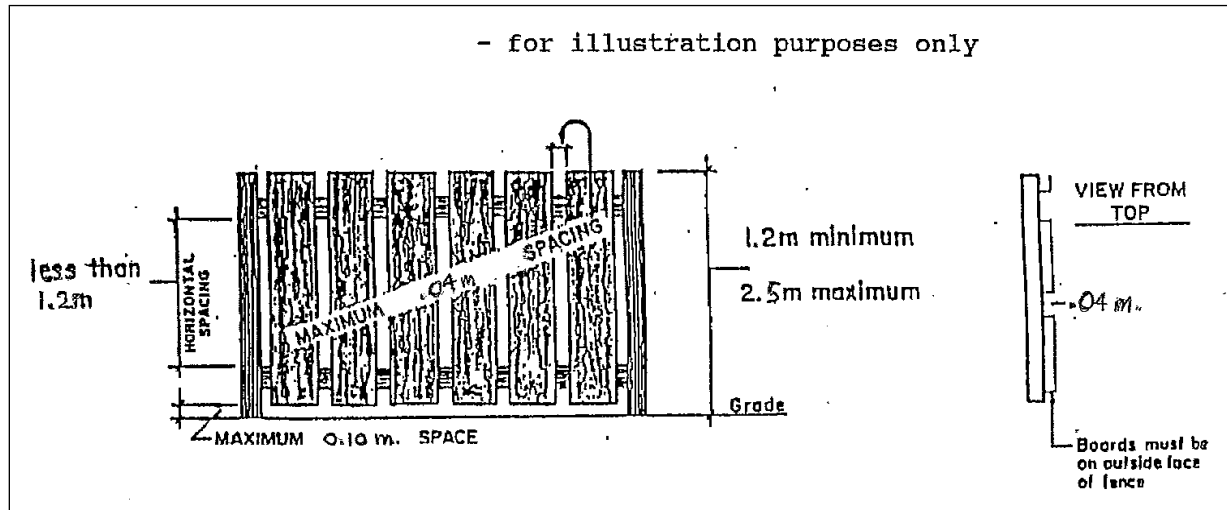


**SCHEDULE "B"**

(Sections 9.3.1 to 9.3.3 inclusive)

**Pool Enclosure Requirements - Panel, Vertical Board & Vertical Picket Fences with  
Horizontal Rails < 1.22 metres Apart**

| Panel, Vertical Board & Vertical Picket Fencing                                                                                                                     | Height                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Horizontal rails <u>less</u> than 1.22 metres apart, measured vertically.                                                                                           | Minimum height 1.22 metres to maximum height of 2.44 metres measured from grade. |
| May have openings between panels, vertical boards or pickets not to exceed 0.04 metres on the face of the fence.                                                    |                                                                                  |
| The opening between the bottom of the fence and the grade will be no greater than 0.10 metres.                                                                      |                                                                                  |
| Panels, vertical boards or vertical pickets must be finished in such a manner so as to present a finished side towards the street and/or the neighbouring property. |                                                                                  |

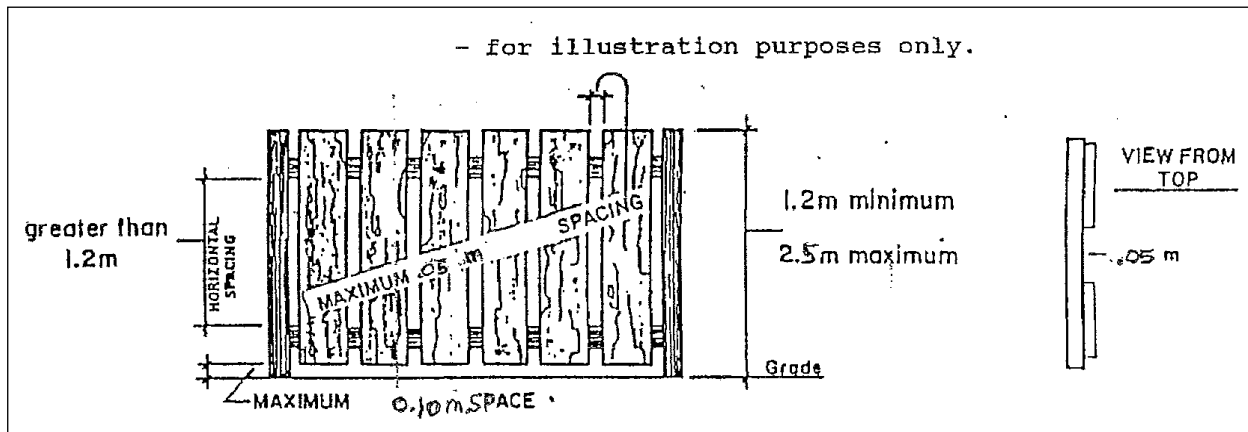


**SCHEDULE "C"**

(Sections 9.4.1 to 9.4.3 inclusive)

**Pool Enclosure Requirements - Panel, Vertical Board & Vertical Picket Fences with  
Horizontal Rails > 1.22 metres Apart**

| <b>Panel, Vertical Board &amp; Vertical Picket Fencing</b>                                                                                                          | <b>Height</b>                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Horizontal rails <u>greater</u> than 1.22 metres apart, measured vertically                                                                                         | Minimum height 1.22 metres to maximum height of 2.44 metres measured vertically from grade. |
| May have openings between panels, vertical boards or pickets not exceeding 0.05 metres on the face of the fence.                                                    |                                                                                             |
| The opening between the bottom of the fence and the grade will be no greater than 0.10 metres.                                                                      |                                                                                             |
| Panels, vertical boards or vertical pickets must be finished in such a manner so as to present a finished side towards the street and/or the neighbouring property. |                                                                                             |

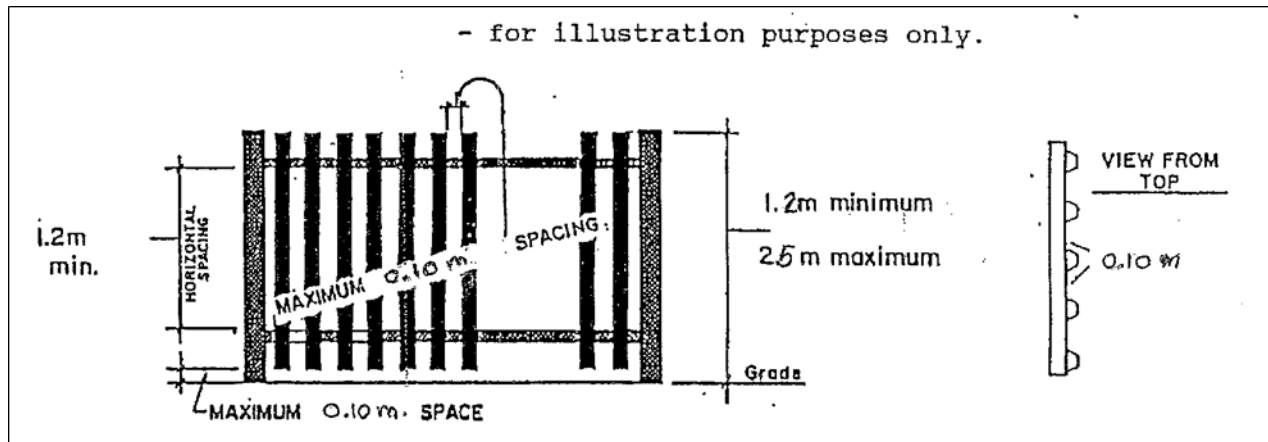


**SCHEDULE "D"**

(Sections 9.5.1 to 9.5.3 inclusive)

**Pool Enclosure Requirements - Wrought Iron or Other Metal-Type Fencing**

| <b>Panel, Vertical Board &amp; Vertical Picket Fencing</b>                                                                                       | <b>Height</b>                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Horizontal rails to be <u>greater</u> than 1.22 m. apart, measured vertically as determined by a measurement taken between the horizontal rails. | Minimum height 1.22 metres to maximum height of 2.44 metres measured vertically from grade. |
| Openings between vertical members are not to exceed 0.10 metres.                                                                                 |                                                                                             |
| The opening between the bottom of the fence and the grade will be no greater than 0.10 metres                                                    |                                                                                             |



**SCHEDULE “E”****(Sections 9.6.1 to 9.6.3 inclusive)****Pool Enclosure Requirements – Walls as Fences**

| <b>Panel, Vertical Board &amp; Vertical Picket Fencing</b>                                                                                                                                                                                                                                                         | <b>Height</b>                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| No ledge or step shall be closer than 1.22 metres from the inside edge of the pool.                                                                                                                                                                                                                                | A wall, or one or more walls, of a building may act as a fence provided the minimum height of the wall is 1.22 metres, measured vertically from grade. |
| If any wall of a building contains any openings that could provide a means of ingress directly into the pool area, then such openings are to be kept locked at all times by a device a minimum height of 1.68 metres above grade except when the pool is in use by the owner or the owner's duly authorized agent. |                                                                                                                                                        |

**SCHEDULE “F”****Conversion Table for Length**

| <b>Metric</b> | <b>Imperial</b> |
|---------------|-----------------|
| 0.04 m.       | 1 ½ in.         |
| 0.05 m.       | 2 in.           |
| 0.10 m.       | 4 in.           |
| 0.61 m.       | 2 ft.           |
| 0.91 m.       | 3 ft.           |
| 1.07 m.       | 3 ft., 6 in.    |
| 1.22 m.       | 4 ft.           |
| 1.68 m.       | 5 ft., 6 in.    |
| 1.83 m.       | 6 ft.           |
| 2.44 m.       | 8 ft.           |
| 3.05 m.       | 10 ft.          |

**SCHEDULE “G”****SET FINE AMOUNTS  
Provincial Offences Act – Part I**

| <b>ITEM</b> | <b>COLUMN 1<br/>Short Form Wording</b>                                                                                                                                                                 | <b>COLUMN 2<br/>Provision Creating<br/>or Defining Offence</b> | <b>Column 3<br/>Set Fine</b> |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------|
| 1.          | Erect/cause to be erected a pool without a pool enclosure permit                                                                                                                                       | Section 6.1                                                    | \$500.00                     |
| 2.          | Failure to erect an enclosure surrounding swimming pool                                                                                                                                                | Section 6.2                                                    | \$500.00                     |
| 3.          | Erect/cause to be erected, a pool enclosure located less than 1.22 metres from the inside edge of a pool                                                                                               | Section 6.3                                                    | \$250.00                     |
| 4.          | Place/pile/attach/lean object against pool enclosure so as to facilitate climbing of pool enclosure and/or render the pool enclosure in non-conformity with provisions of by-law                       | Section 6.7                                                    | \$250.00                     |
| 5.          | Erect/cause to be erected a pool enclosure without finished side presented on exterior surface                                                                                                         | Section 6.8                                                    | \$250.00                     |
| 6.          | Erect or cause to be erected a pool enclosure within sight triangle                                                                                                                                    | Section 6.9                                                    | \$250.00                     |
| 7.          | Failure to erect temporary pool enclosure                                                                                                                                                              | Section 7.1                                                    | \$500.00                     |
| 8.          | Place/allow water in in-ground pool without temporary pool enclosure having been inspected and/or permanent pool enclosures and gates approved and installed in accordance with requirements of By-law | Section 7.5                                                    | \$250.00                     |
| 9.          | Erect/cause to be installed or erected, the use of hazardous material in, around, or on a pool enclosure                                                                                               | Section 8.1                                                    | \$250.00                     |
| 10.         | Pool enclosure - not in accordance with construction requirements.                                                                                                                                     | Section 9                                                      | \$250.00                     |
| 11.         | Above ground pool - Failure to fence steps/ladder at grade/maintain steps or ladder in raised position when not in use.                                                                                | Section 10.2                                                   | \$250.00                     |
| 12.         | Failure to maintain the gates and locking devices of a pool enclosure in good order or good condition.                                                                                                 | Section 11.2                                                   | \$250.00                     |
| 13.         | Failure to keep all pool enclosure entrances locked as required.                                                                                                                                       | Section 11.2                                                   | \$250.00                     |
| 14.         | Double gate – failure to meet requirements.                                                                                                                                                            | Section 11.3                                                   | \$250.00                     |
| 15.         | Obstruct or hinder Chief Building Official/designate/employee/agent performing duty under by-law                                                                                                       | Section 17.2                                                   | \$500.00                     |
| 16.         | Owner fail to comply with emergency order                                                                                                                                                              | Section 17.6                                                   | \$500.00                     |

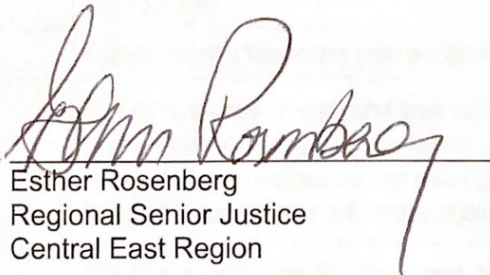
**PROVINCIAL OFFENCES ACT**

**Part I**

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the attached schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By Law 2020-076, for the Town of Bracebridge, attached hereto is the set fine for that offence. This Order is to take effect January 6, 2021.

DATED at Newmarket this 6<sup>th</sup>

day of January, 2021

  
\_\_\_\_\_  
Esther Rosenberg  
Regional Senior Justice  
Central East Region

**SCHEDULE "G"**

**THE CORPORATION OF THE TOWN OF BRACEBRIDGE**  
**By-Law No. 2020-076: Pool Enclosure By-law**

**SET FINE AMOUNTS**  
**Provincial Offences Act – Part I**

| <b>ITEM</b> | <b>COLUMN 1<br/>Short Form Wording</b>                                                                                                                                                                 | <b>COLUMN 2<br/>Provision<br/>Creating or<br/>Defining<br/>Offence</b> | <b>Column 3<br/>Set Fine</b> |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|------------------------------|
| 1.          | Erect/cause to be erected a pool without a pool enclosure permit                                                                                                                                       | Section 6.1                                                            | \$500.00                     |
| 2.          | Failure to erect an enclosure surrounding swimming pool                                                                                                                                                | Section 6.2                                                            | \$500.00                     |
| 3.          | Erect/cause to be erected, a pool enclosure located less than 1.22 metres from the inside edge of a pool                                                                                               | Section 6.3                                                            | \$250.00                     |
| 4.          | Place/pile/attach/lean object against pool enclosure so as to facilitate climbing of pool enclosure and/or render the pool enclosure in non-conformity with provisions of by-law                       | Section 6.7                                                            | \$250.00                     |
| 5.          | Erect/cause to be erected a pool enclosure without finished side presented on exterior surface                                                                                                         | Section 6.8                                                            | \$250.00                     |
| 6.          | Erect or cause to be erected a pool enclosure within sight triangle                                                                                                                                    | Section 6.9                                                            | \$250.00                     |
| 7.          | Failure to erect temporary pool enclosure                                                                                                                                                              | Section 7.1                                                            | \$500.00                     |
| 8.          | Place/allow water in in-ground pool without temporary pool enclosure having been inspected and/or permanent pool enclosures and gates approved and installed in accordance with requirements of By-law | Section 7.5                                                            | \$250.00                     |
| 9.          | Erect/cause to be installed or erected, the use of hazardous material in, around, or on a pool enclosure                                                                                               | Section 8.1                                                            | \$250.00                     |
| 10.         | Pool enclosure - not in accordance with construction requirements.                                                                                                                                     | Section 9                                                              | \$250.00                     |
| 11.         | Above ground pool - Failure to fence steps/ladder at grade/maintain steps or ladder in raised position when not in use.                                                                                | Section 10.2                                                           | \$250.00                     |

| ITEM | COLUMN 1<br>Short Form Wording                                                                         | COLUMN 2<br>Provision<br>Creating or<br>Defining<br>Offence | Column 3<br>Set Fine |
|------|--------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|----------------------|
| 12.  | Failure to maintain the gates and locking devices of a pool enclosure in good order or good condition. | Section 11.2                                                | \$250.00             |
| 13.  | Failure to keep all pool enclosure entrances locked as required.                                       | Section 11.2                                                | \$250.00             |
| 14.  | Double gate – failure to meet requirements.                                                            | Section 11.3                                                | \$250.00             |
| 15.  | Obstruct or hinder Chief Building<br>Official/designate/employee/agent performing duty<br>under by-law | Section 17.2                                                | \$500.00             |
| 16.  | Owner fail to comply with emergency order                                                              | Section 17.6                                                | \$500.00             |

**NOTE:** The general penalty provision for the offences listed above is Section 16.1 of Town of Bracebridge By-law No. 2020-076 (a certified copy of which has been filed).

THE HONOURABLE ESTHER ROSENBERG  
REGIONAL SENIOR JUSTICE  
ONTARIO COURT OF JUSTICE  
CENTRAL EAST REGION

50 EAGLE STREET WEST  
NEWMARKET, ONTARIO L3Y 6B1



L'HONORABLE ESTHER ROSENBERG  
JUGE PRINCIPAL RÉGIONAL  
COUR DE JUSTICE DE L'ONTARIO  
RÉGION DU CENTRE-EST

50, RUE EAGLE OUEST  
NEWMARKET (ONTARIO) L3Y 6B1  
TELEPHONE/TÉLÉPHONE (905) 853-4890  
FAX/TÉLÉCOPIEUR (905) 853-4891

January 6, 2021

Mr. M. Irving  
Chief By-Law Enforcement Officer  
1000 Taylor Court  
Bracebridge, Ontario  
P1L 1R6

Mr. Irving:

**Re: Set Fines – Part I**  
**The Corporation of the Town of Bracebridge**

Enclosed herewith please find the Order and the schedule of set fines.

The setting of the fines does not constitute my approval of the short form of the wording used to describe the offences.

Please forward a copy of the Order and the Schedule of set fines to the POA Court in Bracebridge.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Esther Rosenberg', written over the typed name and title.

Esther Rosenberg  
Regional Senior Justice  
Central East Region

/bmw

Enclosures