

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2026-22

Being a By-law to prescribe the height, description and requirements for fences around swimming pools and for requiring fence enclosure permits for swimming pools within the Township of Tay

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25 ("The Municipal Act, 2001") provides a municipality with the broad authority to pass by-laws necessary or desirable for municipal purposes;

AND WHEREAS Section 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

AND WHEREAS Subsection 10 (2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

AND WHEREAS Section 425 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes the Corporation of the Township of Tay to pass by-laws providing that a person who contravenes a by-law of the Corporation of the Township of Tay passed under that Act is guilty of an offence

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AND BE IT ENACTED AS FOLLOWS;

This By-law may be cited as the "Pool Enclosure By-law".

1. DEFINITIONS

For the purpose of this By-law, the following definitions shall apply

- 1.1 "Building Inspector" means an inspector appointed by the Chief Building Official to inspect buildings and structures pursuant to the Building Code Act and Designate shall mean the same.
- 1.2 "Chief Building Official" or "CBO" means the person appointed by the Council of the City to administer the Building Code pursuant to the Building Code Act.
- 1.3 "Enclosure" means a fence, wall or other structure or thing, including gates and doors, which surrounds the perimeter of a pool which would discourage the entry of a person into the enclosed area but shall not include vegetation, trees and/or hedges or the like.
- 1.4 "Gate" means a barrier swinging on the vertical axis used as a means to gain access to the enclosed area.
- 1.5 "Officer" means a Municipal Law Enforcement Officer or any other person appointed by the Township to enforce the provisions of by-laws.
- 1.6 "Owner" means the individual, firm or corporation that is the registered owner of the land and includes a lessee, tenant,

mortgagee in possession, and the person or persons in charge of land on which a pool is located.

- 1.7 "Permit" means a permit issued under this By-law. "Pool Enclosure Permit" shall mean the same.
- 1.8 "Person" means a natural person, firm, partnership, corporation or association and includes the Owner.
- 1.9 "Pool" or "Swimming Pool" means any privately owned body of water located outdoors above or below finished grade on privately owned property, contained in part or in whole by artificial means in which the depth of water at any point can exceed 450 millimetres (18 inches). Not included in this definition is any swimming pool owned by a public or government body, agency or authority, or any naturally occurring streams, lakes or quarry.
- 1.10 "Spa" means hot tubs, spas, whirlpools, swim spas and other similar spas.

2. PERMITS

- 2.1 No person shall excavate for, erect or install a pool, or cause the excavation for, erection of or installation of a pool unless a permit for the pool enclosure has been issued by the Chief Building Official.
- 2.2 An application for a permit to construct a swimming pool fence around a pool shall be submitted to the Chief Building Official together with fees and plans showing the location of the swimming pool in relation to the property lines and to adjacent buildings and shall provide full details of all required structures.
- 2.3 The location of a swimming pool on the property shall conform to the requirements of the Township of Tay's General Zoning By-law.
- 2.4 Fees for pool fence permits shall be in accordance with the Townships Consolidated User Fees and Service Charges By-law.
- 2.5 No permit is required for the construction of a fence that does not form part of a pool fence.
- 2.6 No person shall place water in or cause water to be placed in a pool or allow water to remain therein unless a pool fence completely enclosing the entire swimming pool area has been constructed in accordance with the permit requirements of this by-law and is being maintained at all times in good condition.

3. EXISTING FENCES

- 3.1 This by-law does not apply to a pool fence that was lawfully erected prior to the date of passage of this by-law, except that any changes to such pool fence, after the date of passage of this by-law, shall be subject to the provisions of this by-law. A change in use of a fence to act as a pool fence as a result of a pool installed after the date of passage of this By-law shall require such fence to be constructed in accordance with this By-law.

4. ENCLOSURES

- 4.1 Every enclosure shall be erected and maintained to surround the entire swimming pool area and shall be sufficient to make such body of water not readily accessible to small children.

- 4.2 The enclosure, including gates therein, shall extend from the ground to a height, measured on the outside of the enclosure, of not less than 1.2 metres (4 feet).
- 4.3 The enclosure shall be located not less than 1.2 metres (4 feet) from the nearest inside wetted surface of the swimming pool wall unless the required height of said enclosure is increased to 1.6 metres (6 feet).
- 4.4 A fence or its equivalent forming part of such enclosure shall be of chain link construction, vertically boarded wood construction, or other materials and construction as provided for:

4.4.1 If chain link construction, shall:

- a) A mesh not greater than 38 millimetres (1½ inches) consisting of 11 gauge galvanized steel wire, or of 13 gauge steel wire covered with vinyl or other approved plastic which would yield a total thickness equivalent to 11 gauge wire.
- b) Galvanized steel supporting posts spaced at maximum 3.0 metres (10 feet) intervals; and extended at least 0.84 metre (2 feet 9 inches) below grade for a fence not exceeding 1.2 metres (4 feet) high or extended at least 1.2 metres (4 feet) below grade for a fence not exceeding 1.8 metres (6 feet) high.
- c) End posts and gate posts of minimum 48 millimetres (1 and 7/8 inches) diameter encased in concrete at least 150 millimetres (6 inches) thick below grade.
- d) Intermediate posts of minimum 38 millimetres (1½ inches) diameter encased in concrete at least 150 millimetres (6 inches) thick below grade when more than 15 metres (50 feet) from an end post, a corner post or an intermediate post that is similarly encased.

4.4.2 If of wood construction, shall:

- a) Have vertical boarding 25 millimetres (1 inch) thick nominal attached to a top and bottom rail in such a manner as to not facilitate climbing from the outside. Such vertical boards must not be less 25 millimetres x 100 millimetres (1 inch x 4 inches) nominal and must be spaced not more than 25 millimetres (1 inches) apart.
- b) Be supported by posts at least 100 millimetres x 100 millimetres (4 inches x 4 inches) nominal, spaced not more than 2.4 metres (8 feet) apart. Such posts shall extend at least 0.9 metre (3 feet) into the ground for a 1.2 metre (4 feet) high fence and 1.2 metre (4 feet) into the ground for a 1.8 metre (6 feet) high fence and be securely embedded therein. The portion below grade shall be treated with an approved wood preservative or be of pressure treated wood.

- 4.5. If constructed of other materials, the construction must provide an equivalent degree of safety satisfactory to the Chief Building Official.

5. ABOVE GROUND SWIMMING POOLS AND SPAS

- 5.1 Above ground swimming pools require the same type of pool fencing as inground pools.
- 5.2 An above ground pool may include a fence enclosure that can be attached to the top of the pool wall to provide a minimum of 1.52 metres (5 feet) clearance between the finished grade and the top of the attached fence enclosure.
- 5.3 Spas need not comply with Section 2 through 7 of this by-law provided that a secure cover of rigid material is placed over the opening, and provided that no person shall leave the spa without first locking the cover in place to prevent access when the spa is not in use.
- 5.4 Swimming pools that have manufactured lockable covers need not comply with requirements of Section 2 through 7 of this by-law provided that a secure cover of rigid material is placed over the opening, and provided that no person shall leave the pool without first locking the cover in place to prevent access when the structure is not in use.

6. GATES

- 6.1 Gates forming part of such enclosure shall:
 - a) Be of construction and height equivalent to that required for the fence; and
 - b) Be supported on substantial hinges; and
 - c) Be self-closing and equipped with a locking device placed at the top and inside of the gate so that the device latches when the gate is in the closed position.

7. CLIMBABILITY

- 7.1 The enclosure shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.

8. ADMINISTRATION AND ENFORCEMENT

- 8.1 This by-law shall be administered by the Chief Building Official or their designate and enforced by an Officer, their designate or any person appointed or otherwise delegated the authority of administration and enforcement.
- 8.2 This by-law shall apply to all private pools.

9. ENTRY AND INSPECTION

- 9.1 An Officer, Chief Building Official or designate may, at any time, enter onto any land to determine whether this By-law is being complied with.
- 9.2 Every Owner shall permit the Officer, Chief Building Official or designate to inspect the property for the purposes of determining compliance with this By-law.

10. OBSTRUCTION

- 10.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer 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 to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of their duties.

11. PENALTIES

- 11.1 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33.
- 11.2 Each day on which a person contravenes any provisions of this By-law shall be deemed to constitute a separate offence under this By-law as provided for in section 429(2) of the Municipal Act, S.O. 2001, c. 25.
- 11.3 Every person who contravenes the provisions of any section of this By-law, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 11.4 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 11.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected.
- 11.6 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 11.7 For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 11.8 Notwithstanding Section 11.6 and 11.7, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.
- 11.9 Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

12. VALIDITY AND SEVERABILITY

- 12.1 Should any section, subsection, clause, paragraph, or provision of this bylaw be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by—law, or of the by-law as a whole.

13. REPEAL

13.1 That Bylaw 2006-23 and all amendments thereto are hereby repealed and replaced with this By-law.

14. ENACTMENT

14.1 This By-Law shall come into force and take effect immediately upon the final passing thereof.

THAT BY-LAW NO. 2026-22 BE ENACTED AS A BY-LAW OF THE TOWNSHIP OF TAY THIS 27th DAY OF MAY, 2026.

THE CORPORATION OF THE TOWNSHIP OF TAY



MAYOR, Ted Walker



CLERK, Katelyn Johns

By signing this by-law on May 27, 2026, Mayor Walker will not exercise the power to veto this by-law.

SCHEDULE 'A' TO BY-LAW 2026-22

PART 1 Provincial Offences Act - Set Fine Schedule

THE CORPORATION OF THE TOWNSHIP OF TAY

By-law No. 2026-22, Pool Enclosure By-law

Item	Column 1 Short Word Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1	Excavate, erect, or install pool without a permit	2.1	\$150.00
2	Cause excavation, erection or installation of pool without a permit	2.1	\$150.00
3	Place water in pool, fence not in accordance with by-law	2.6	\$300.00
4	Cause water to be placed in pool, fence not in accordance with by-law	2.6	\$300.00
5	Place water in pool, fence not in good condition	2.6	\$300.00
6	Cause water to be placed in pool, fence not in good condition	2.6	\$300.00
7	Fail to maintain pool fence in good condition	2.6	\$150.00

Note: The penalty provision(s) for the offences indicated above is Section 11 of By-Law #2026-22. A certified Copy of which has been filed.