

THE CORPORATION OF THE TOWN OF GORE BAY

BY-LAW NO. 2020-21

BEING A BY-LAW TO REQUIRE THE ERECTION AND MAINTENANCE OF FENCES AND GATES AROUND PRIVATE OUTDOOR SWIMMING POOLS AND THE CONTROL OF WATER DEVICES TO AND FROM SUCH POOLS

WHEREAS *The Municipal Act, R.S.O. 1990, c. M45 section 210 paragraph 30* authorizes municipalities to enact bylaws respecting fences for privately owned outdoor swimming pools; and

AND WHEREAS *The Municipal Act R.S.O. 1990, c. 25 Sections 8, 9 and 10* authorizes municipalities to pass bylaws that are necessary or desirable for municipal, and in particular 10.2 (4) (5) (6) (7) (8) respecting public assets of the municipality; economic, social and environmental well being of the municipality; health, safety and well being of persons; services and things that the municipality is authorized to provide; and protection of persons and property, including consumer protection;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GORE BAY ENACTS AS FOLLOWS:

1.0 DEFINITIONS:

FOR THE PURPOSE OF THIS BY-LAW:

1.1 “BACKFLOW PREVENTOR” means the device used in a water supply pipe which:

- i) incorporates two or more check valves to prohibit the reverse flow of the water, irrespective of pressure differentials, where the maximum working pressure is not exceeded; and
- ii) Contains integral safeguards to make it fail-safe in the event of a malfunction of one or more of the check valves.

1.2 “Bylaw Enforcement Officer” means a person duly appointed by the Council of the Town of Gore Bay to enforce its municipal bylaws.

1.3 “CHIEF BUILDING OFFICIAL” means the Chief Building Official for the Corporation of the Town of Gore Bay or his designate.

1.4 “ENCLOSURE” means a fence, wall, or other structure including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.

1.5 “GATE” means a swinging or sliding barrier being capable of closing off entirely an access.

1.6 “HYDRO MASSAGE POOL” means those pools commonly referred to as a hot tub, a whirl pool, a jacuzzi or a spa.

1.7 “OWNER” Shall mean and include a lessee or tenant, in possession of property in which an outdoor swimming pool is located.

1.8 “PERSON” means any firm, corporation, partnership, individual or association.

1.9 “PERMIT” means Town of Gore Bay Pool Fencing Application.

1.10 “PRIVATELY OWNED OUTDOOR SWIMMING POOL” means a structure, basin, chamber or tank containing or capable of containing water, and is designed to be used for swimming, wading, bathing, or diving:

- i) Has a depth of more than .0610 metres (24 inches) at any point; and
- ii) Has a surface area of more than 1 square metre (10.8 square feet); and
- iii) Is not under the jurisdiction of the Building Code; and
- iv) Is not completely inside a building; and
- v) Is not owned by government or a local board or commission constituted under any statute or by-law; and
- vi) Is not a pond or reservoir to be utilized for farming purposes; and
- vii) But excludes hydro massage pools; and
- viii) Excludes storm water management pond.

1.9“TOWN” means the Corporation of the Town of Gore Bay.

2 Prohibitions

2.1 No person shall excavate for or erect a privately owned swimming pool without a permit or certificate that approval of the plans for a fence and gate has been issued.

2.2 No person shall construct a privately owned outdoor swimming pool without having the pool excavation site surrounded by a snow fence.

2.3 No person shall erect a fence or gate for a swimming pool until plans for such fences and gates and a Swimming Pool Fence Application have been submitted to the Chief Building Official and that a permit certifying approval of such plans has been issued. (See Schedule “B”)

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

2.5 No person shall discharge water from a swimming pool into any municipal sanitary sewer system or be discharged so as to cause damage to any privately or publicly owned property.

2.6 No person shall fill a privately owned outdoor swimming pool that is supplied either directly or indirectly through devices, with water from a permanent potable water supply line or such permanent water supply lines without having an operational backflow preventor.

3.0 Enclosures

3.1 The owner of a privately owned outdoor swimming pool shall erect and maintain an adequate enclosure surrounding the entire swimming pool area and sufficient to make such body of water not readily accessible to small children.

3.2 Except as further provided in clause 7 c), such enclosures, including gates therein, shall extend from the ground to a height, measuring on the outside of the enclosure, of not less than 1.5 metres (5 feet) in height, nor higher than 1.829 metres (6 feet).

3.3 A wall or walls of a building or buildings may form part of such an enclosure provided that all openings affording access to a swimming pool area are equipped with self-closing devices and self-latching devices to be located not less than 1.5 metres (5 feet) vertically from the floor level.

3.4 A boundary fence which is in compliance with this By-Law shall be deemed to be an acceptable fence subject to the location of the swimming pool meeting the requirements contained in the Town Zoning By-Law.

3.5 Such enclosure shall have no railings or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.

3.6 A fence of its equivalent forming part of such enclosure:

- i) Shall be of the vertically boarded wood construction, chain link construction, or of other materials and construction as provided for in clause (f) (vi);
- ii) If of chain link construction, shall:
 - Have openings with a horizontal dimension of not greater than 38 mm (1.5 inches);
 - Be constructed of galvanized steel wire not less than number 12 gauge, or of a minimum 14 -gauge steel wire covered with a vinyl, or other approved coating forming a total thickness equivalent to #12 -gauge galvanized wire;
 - Be supported by a least 38 mm (1.5 inches) diameter galvanized steel posts each imbedded in a minimum of 50 mm (2 inches) of concrete from grade to a minimum of .0610 metres (2 feet) below grade, such posts to be spaced not more than 3.048 metres (10 feet) apart;
 - Top and bottom horizontal railings shall be provided of 31.8 mm (1.25 inches) minimum diameter galvanized steel except that a 6.4 mm minimum diameter galvanized 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.
- iii) If of wood construction, shall:
 - Have the vertical boarding attached to supporting members all of which are arranged in such a manner though as not to facilitate climbing from the outside. Such vertical boards shall be not less than 1-inch x 4-inch nominal dimension spaced not more than 38 mm (1.5 inches) apart;
 - Be supported by a minimum of 101.6 mm (4 inches) square or 101.6 mm (4 inches) diameter cedar posts nominal dimensions spaced not more than 2.438 metres (8 feet) on centres, securely imbedded to minimum of .610 metres (2 feet) below grade. That portion of the wood below grade shall be treated with a wood preservative. Top and bottom horizontal rails shall be provided of wood 50 mm (2 inches) by 101.5 mm (4 inches) minimum nominal dimensions;
- iv) Shall include no part consisting of barbed wire or having similar dangerous characteristics and no device for projecting an electric current through the fence;
- v) Shall be located not less than 1.219 metres (4 feet) from the swimming pool unless:
 - The required height of said fence, as prescribed in paragraph 7 ii), is increased to 1.829 meter (6 feet), and
 - A continuous hand hold is available along edges of the pool for the purposes of providing in an emergency support for persons in a pool, and such fence shall not regardless of height, be located closer than 1.219 metres (4 feet) to any condition on the property that would contribute to the lessening of the said minimum safety requirements by facilitating the climbing of the swimming pool fence.
- vi) May be of the construction other than specified provided an equivalent degree of safety is maintained and shall:
 - Be constructed so that rigidity is equal to that specified for those senses prescribed in clause (f) (ii) or (iii).

3.7Gates forming part of such enclosures shall:

- a) Be of construction and height equivalent to that required for the fence;
- b) Be supported on substantial hinges; and
- c) 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.

3.8 The owner of every privately owned outdoor swimming pool shall ensure that every gate and door required by paragraph (c) and (g) to be equipped with a locking device shall be kept locked up at all times if there is more than 0.610 metres (24 inches) of water in the pool and a responsible person is not present to supervise the pool.

3.9 Where the orifice of a faucet, spout or distributing pipe supplies water to a privately owned outdoor swimming pool, a backflow preventor shall be connected to such orifice.

3.10 No equipment for the operation of any privately owned outdoor swimming pool shall be installed or operated in such a manner as to become obnoxious, offensive or dangerous by reason of the presence or omission of odours, noise, gas fumes, vibrations, or waste water.

3.11 The provisions of this By-Law requiring erection of a fence shall not apply where the outer walls of a swimming pool are not less than 1.5 metres (5 feet) in height from ground level and that all exterior surfaces of such walls are constructed so as to prevent access to pool from other than an approved opening. All openings shall be equipped with a gate as set out in Section 3.7 of this bylaw.

3.12 This bylaw shall apply to all previous owned outdoor swimming pools with the Corporation of the Town of Gore Bay regardless of the date of construction / erection thereof. Owners given a reasonable amount of time to comply.

4.0 Enforcement

4.1 Every person who contravenes any of the provisions of this By-Law 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.

4.2 No person shall hinder or obstruct, or attempt to hinder or obstruct an officer who is exercising a power or performing a duty under this by-law.

4.3 This Bylaw will be enforced by the Chief Building Inspector or designate, or the Bylaw Enforcement Officer or designate.

5.0 Severability

5.1 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part in particular circumstances, the balance of the bylaw or its application in other circumstances shall not be affected and shall continue in full force and effect.

6.0 Administration

6.1 This Bylaw repeals bylaw 87-26 and all/any of its amendments.

6.2 That this by-law shall come into force and take effect on the final date of passing hereof.

READ THIS FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF JULY, 2020.

Mayor

Clerk

Schedule “A”

Corporation of the Town of Gore Bay

Bylaw 2020-21

“Pool Fencing Bylaw”

Part 1

Provincial Offences Act

Set Fines

Item	Short Form Wording	Provision Creating Offence	Set Fine
1	Excavate for pool without permit	2.1	\$200.00
2	Fail to erect snow fence	2.2	\$200.00
3	Erect fence without permit	2.3	\$200.00
4	Filling pool without enclosure	2.4	\$300.00
5	Discharge pool water in municipal water system.	2.5	\$300.00
6	Water system does not have backflow preventer.	2.6	\$300.00
7	Obstruct or hinder an Officer	4.2	\$500.00
8	Attempt to obstruct or hinder an Officer	4.2	\$500.00

Note: The penalty provision for the offences indicated above is section 4.1 of this Bylaw No. 2020-21 of which a certified copy has been filed.