

**THE CORPORATION OF THE
TOWNSHIP OF GEORGIAN BAY
BY-LAW NO. 2007- 29**

**BEING A BY-LAW TO REGULATE FENCES AROUND
PRIVATELY OWNED SWIMMING POOLS
IN THE TOWNSHIP OF GEORGIAN BAY.**

WHEREAS the *Municipal Act, S.O. 2001, Chapter 25, Section 8(1), As Amended*, confers broad authority on municipalities to enable them to govern their affairs as they consider appropriate;

AND WHEREAS the *Municipal Act, S.O. 2001, Chapter 25, Section 10(2)10, As Amended*, provides that a municipality may pass By-laws respecting structures, including fences and signs;

AND WHEREAS it is deemed expedient to regulate fencing around private outdoor swimming pools in the Township of Georgian Bay;

AND WHEREAS it is deemed appropriate to provide clarification to the definition of "Swimming Pool";

NOW THEREFORE the Council of the Corporation of the Township of Georgian Bay ENACTS AS FOLLOWS:-

SHORT TITLE – SECTION 1

- 1.1. This By-Law shall be known and may be cited as the "Swimming Pool Fence By-Law".

DEFINITIONS – SECTION 2

- 2.1. "Chief Building Official" means the Chief Building Official appointed by the Township of Georgian Bay under the Ontario Building Code Act or his/her designate for administrative purposes.
- 2.2. "Enclosure" means a structure or partition made of wood, metal or other substance and erected for the purpose of enclosing a piece of land into distinct partitions, and includes doors, gates and other closures, and is designed to restrict access to privately owned outdoor swimming pools.
- 2.3. "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.

- 2.4. "Swimming Pool" shall mean, an excavation or container designed to hold water, whether in ground or above ground, either hard sided or soft-sided, the purpose of which is for swimming, diving, bathing, wading, or any other recreational water activity, and containing water greater than 60 cm (24 inches) deep, or has capacity to hold water of a depth greater than 60 cm (2 feet) but does not include a swimming pool owned by a public or government body, agency or authority , or any farm pond, naturally occurring streams, lakes, creeks, ponds or quarries.
- 2.5. "Swimming Pool Fence" means a fence surrounding a privately owned outdoor swimming pool and shall include a fence integrated into the design of the swimming pool.
- 2.6. "Township" means the Corporation of the Township of Georgian Bay.

GENERAL PROVISIONS – SECTION 3

- 3.1. No person shall erect or cause to be erected, a swimming pool, unless totally enclosed by a free standing fence or fence which is integrated into the design of the swimming pool.
- 3.2. Administration of this By-Law shall be under the authority of the Chief Building Official of the Corporation of the Township of Georgian Bay or the appointed designate.
- 3.3. Inspection – the Chief Building Official, or appointed designate, shall have the right to enter onto any property containing a new privately owned outdoor swimming pool during reasonable hours for the purpose of inspecting the swimming pool fence enclosure.
- 3.4. Swimming pools shall be located no closer to lot lines than permitted by the Township of Georgian Bay Zoning By-Law No.91-19 as amended.
- 3.5. Provisions of this By-Law shall apply to all privately owned outdoor swimming pools constructed subsequent to the date of passage of this By-Law.
- 3.6. No person shall excavate for or cause or permit excavation for any privately owned outdoor swimming pool, or erect or cause or permit the erection of any privately owned outdoor swimming pool without first obtaining a swimming pool fence permit from the Township. Fees for pool fence permits shall be in accordance with Schedule "A" of this By-law. Application for a pool fence permit shall be in accordance with Schedule "B"
- 3.7. Prior to issuing such permit, the Chief Building Official shall be satisfied that the proposed fence shall be in conformity with the requirements stipulated herein.

- 3.8. 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 without notifying the Chief Building Official or designate, and filing details of such change with the CBO or designate for the purpose of obtaining authorization.
- 3.9. No person shall place water in a swimming pool, allow water to remain in a swimming pool or use a swimming pool unless an enclosure has been erected in accordance with the provisions of this By-Law.
- 3.10. The owner of lands, or his agent, upon which it is intended to construct or erect a swimming pool, or upon which a swimming pool is located, shall apply to the Chief Building Official, or designate, and obtain a plumbing permit before any direct connection is made between a swimming pool and any water supply, and a swimming pool and any drain.
- 3.11. No person shall allow the fences and gates, as prescribed in this By-law, to be removed, destroyed or come into a state where they do not perform their intended use and purpose.
- 3.12. Structures known as "hot tubs", "whirlpools" and "spas" need not comply with requirements of Section 4 through 5 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 hot tub, whirlpool or spa without first locking the cover in place to prevent access when the structure is not in use.

FENCING REQUIREMENTS – SECTION 4

- 4.1. Specifications – every swimming pool shall be enclosed with fencing, or enclosure, including gates, in accordance with one or more of the specifications set out in this By-Law. Such fencing, or enclosure, including gates therein shall extend from the ground to the height of not less than 1.52 m (4 feet) and shall fulfill the intent of prohibiting unauthorized trespass unto the swimming pool area.
- 4.2. No space or opening below the top of an enclosure shall be more than 100mm (4 inches) in length or width. No enclosure shall be located closer than 1.2 m (4 ft) to any feature that facilitates the climbing of the enclosure unless alternative measures, satisfactory to the Chief Building Official, are implemented to provide an equivalent level of safety as set out in this By-Law.
- 4.3. No enclosure shall be constructed with any features which may facilitate climbing.

- 4.4. Chain Link Fence – may be used, with links not exceeding 44 mm (1.5 in.) consisting of 12 gauge galvanized steel wire, or of 14 gauge steel wire covered with vinyl or other approved plastic that would yield a total thickness equivalent to 12 gauge wire.
- 4.5. Galvanized steel supporting posts measuring 38 mm (1.5 in) in diameter) spaced at a maximum of 3.0 m (10 ft) apart may be used. Such posts shall be encased in concrete extending below grade; and top and bottom rail shall be firmly fastened to the upright posts and made of 32 mm (1.25 in) diameter galvanized steel. A galvanized steel rod / wire 5 mm may be substituted for the bottom rail.
- 4.6. Wood / Board Fence – a fence of vertical board construction shall have wood of 19 mm (3/4 in) thick attached to a top and bottom rail in such a manner as to prevent climbing from the outside. Such boards must not be less than 19 mm x 100 mm (3/4 in x 4 in) and must be spaced not more than 100 mm (4 in) apart. Supporting horizontal members shall have a minimum dimension of 39 x 89 mm (2 x 4 inch nominal) and shall be spaced a minimum of 1.22 m (4 ft) apart installed on swimming pool side; and horizontal members shall be supported by posts that are a minimum 89 mm (4 inches square) and shall be spaced a maximum of 3.0m (10ft) apart. The posts shall be placed a minimum of 0.5 m (2 ft) below grade with the portion below grade treated with an approved wood preservative or equivalent.
- 4.7. Exceptions – the wall of a building may form part of the required enclosure, except where:
- the main building entrance is located within the swimming pool enclosure;
or
 - the service entrance to a multiple occupancy building is located within the swimming pool enclosure; or
 - a utility meter or furnace oil filler pipe is located within the swimming pool enclosure.
- 4.8. Other Fencing – other types of fences including retaining walls and deck guards to serve as swimming pool fences shall be constructed in accordance with the requirements of the Ontario Building Code.
- 4.9. A fence of any other construction which provides an equivalent or greater degree of strength and safety and which meets the requirements of the Ontario Building Code may be approved by the Chief Building Official upon receipt of complete plans and specifications for such fence.
- 4.10. Above ground swimming pools, where they are hard-sided, may have a fence as an integral part of their construction with an effective height of 1.83m (6 ft)

provided that it is of stable construction to resist entry and that a suitable ground constructed enclosure surrounds the entrance ladder. Maximum vertical and horizontal spacing to be 100 mm (4 inches) in all cases.

- 4.11. Temporary Fence – a temporary fence shall consist of 1.52 mm (5 ft) high plastic mesh, having mesh not greater than 38 mm (1.5 in) and shall be permitted only during construction. It shall be replaced prior to the swimming pool being completed.
- 4.12. Barbed Wire / Electric Current – the use of barbed wire or electrical current with respect to any fence enclosing a privately owned swimming pool is strictly prohibited.
- 4.13. Lattice Work – the use of lattice work as part of the enclosing fence is prohibited.

GATES – ENTRANCES – SECTION 5

- 5.1. Gate – every gate shall be at least the same height as the fence of which it is a part, be supported by substantial hinges and be equipped with approved self closing and self-latching hardware installed according to manufactures instructions, and at the top of the gate on the swimming pool side of the gate.
- 5.2. Gate lock – every gate and every enclosure shall be closed and locked at all times except when the owner or lessee is in direct control and supervision of the swimming pool.

ENFORCEMENT – SECTION 6

- 6.1. The enforcement of this By-Law shall be under the authority of the Chief Building Official of the Township of Georgian Bay. Any person found to be in contravention of any portion of this By-Law is guilty of an offence and is subject to a penalty as prescribed in the Provincial Offences Act.
- 6.2. If deemed an unsafe situation or an emergency, the Township may cause the swimming pool to be temporarily fenced or drained of all water until such time as the required fence has been completed. The cost of such work shall be borne by the property owner and collected in a like manner as taxes in accordance with Section 427 of the Municipal Act.

PENALTIES-SECTION 7

- 7.1 Any person who contravenes any of the provisions of this By-law is guilty of an offence and on conviction, is liable to a fine as provided for in Section 61 of the Provincial Offences Act.

EFFECTIVE DATE – SECTION 8

- 8.1. This By-Law shall come into force and take effect with the passing thereof.
- 8.2. Should any section, subsection, clause or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the Part so declared to be invalid.

RESCINDMENT OF PREVIOUS BY-LAW – SECTION 9

- 9.1 All former By-laws pertaining to this matter, in particular By-law No. 1993-104 are hereby rescinded as of the passage of this By-law.

READ a FIRST, SECOND and THIRD TIME this ^{2nd} day of April 2007.



A handwritten signature in blue ink, appearing to read "J. Mulder".

MAYOR

A handwritten signature in blue ink, appearing to read "Lucy Boonstra".

CLERK

SCHEDULE “A”
By-law 2007-29

SWIMMING POOL FENCE ENCLOSURES PERMIT FEES

TYPE OF POOL FEE

IN-GROUND POOL FENCE	\$50.00 FLAT RATE
ABOVE GROUND POOL FENCE	\$50.00 FLAT RATE



Schedule B
The Corporation of the
Township of Georgian Bay

**APPLICATION FOR A
SWIMMING POOL PERMIT**

99 Lone Pine Rd
Port Severn, Ontario • L0K 1S0
Phone (800) 567-0187 or (705) 538-2337 ext 4
Fax (705) 538-1850
e-mail building@township.georgianbay.on.ca

NOTE: Please submit two copies of plans and details with your application ALL MEASUREMENTS TO BE IN METRIC OR IMPERIAL Scope of Work: ☐ In Ground Pool ☐ On Ground Pool ☐ Above Ground Pool ☐ Temporary/Inflatable Estimated Value of Construction: \$ _____	OFFICE USE Permit No: _____ Permit Fee: _____ Receipt No: _____ Payment Method: _____
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Pool Description (including size in metric)		Heater Y or N
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Construction Address	Street number & name					
	Zoning	Lot #	Plan #	Lot Frontage	Easements Y or N	Septic System Y or N

Property Owner	Name	Phone ()
	Address	City
		Postal Code

Pool Contractor	Name	Phone ()
	Address	City
		Postal Code

Applicant	Name	Phone ()
	Address	City
		Postal Code

Tenant (if applicable) * see item #1b, below	Name	Phone ()
	Address	City
		Postal Code

When Permit is Ready: ☐ Phone or ☐ Mail Permit TO: ☐ Owner ☐ Contractor ☐ Applicant ☐ Tennant

The undersigned provides and consents to the collection, use and disclosure of personal information for the purposes as set out in Swimming Pool By-law 2007-29.

Personal information contained in this form is collected pursuant to the Municipal Act and will be used to carry out the works described on this application. The undersigned agrees to carry out the work in accordance with all plans and documents which form the basis of permit issuance, and comply with all Township By-laws and regulations, and other applicable requirements.

I, _____ of the City/Town of _____ do solemnly declare:

1. a) THAT I am the ☐OWNER or the ☐AUTHORIZED AGENT OF THE OWNER named in the application for a swimming pool permit
or
b) THAT I am the ☐TENANT of the above noted property and enclose owner's written authorization.
2. THAT statements made herein are true and are made with full knowledge of circumstances relating to this application.
3. THAT I know of no reason why a permit should not be granted to this application.

Applicant's Signature

Application Date

CORPORATION OF THE TOWNSHIP OF GEORGIAN BAY

PART 1 PROVINCIAL OFFENCES ACT

By-Law No. 2007-29

ITEM	Column 1 Short Form Wording	Column 2 Offence Creating Provision	Column 3 Set Fine
1	Erect pool, no swimming pool fence permit	Section 3.1	\$120.00
2	Cause pool to be erected, no swimming pool fence permit	Section 3.1	\$120.00
3	Excavate for pool, no swimming pool fence permit	Section 3.6	\$300.00
4	Cause water to be placed in pool, fence not in accordance with by-law	Section 3.9	\$300.00
5	Allow water to be placed in pool, fence not in accordance with by-law	Section 3.9	\$300.00
6	Allow water to remain in pool, fence not in accordance with by-law	Section 3.9	\$300.00
7	Cause water to be placed in pool, or discharged into drain without plumbing permit	Section 3.10	\$300.00
8	Allow water to be placed in pool, or discharged into drain without plumbing permit	Section 3.10	\$300.00
9	Place water in pool, fence not in good condition	Section 3.11	\$300.00
10	Cause water to be placed in pool, fence not in good condition	Section 3.11	\$300.00
11	Allow water to remain in pool, fence not in good condition	Section 3.11	\$300.00

Note: The penalty provision(s) for the offences indicated above is Section 7.1 of By-Law No. 2007-29, a certified Copy of which has been filed.