

**THE CORPORATION
OF THE TOWNSHIP OF NORTH GLENGARRY**

BY-LAW # 06-2016

BEING a by-law of The Corporation of the Township of North Glengarry to regulate the requirements for swimming pools and their enclosures.

WHEREAS Section 11(2) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, allows the Municipality to pass bylaws respecting structures, including fences and signs;

AND WHEREAS under Section 130 of the Municipal Act 2001 a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well being of the inhabitants of the municipality;

AND WHEREAS Section 391 (1) of the Municipal Act 2001 provides that despite any Act, a municipality may pass by-laws imposing fees or charges on any class of person, for services or activities provided or done by or on behalf of the municipality.

AND WHEREAS Section 427 of the Municipal Act authorizes a municipality to direct a matter or thing to be done under a by-law to be done at the person's expense should the person fail to do so, and to recover the costs of doing the thing or matter by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

NOW THEREFORE the Council of the Corporation of the Township of North Glengarry hereby enacts the following as a by-law:

SHORT TITLE

This By-Law may be cited as the "*Pool By-Law*"

**Part 1
DEFINITIONS**

1.1 Definitions

In this By-Law,:

"Building" means any structures used or intended for supporting or sheltering any use or occupancy;

"Building Inspector" means an inspector appointed pursuant to subsection 3(2) of the Act and by By-Law of the Township of North Glengarry for the purpose of enforcement of the Act;

"By-Law Enforcement Officer" means a Municipal Law Enforcement Officer of the Corporation of the Township of North Glengarry authorized by the Corporation of the Township of North Glengarry for the enforcement of By-Laws in the Township of North Glengarry;

"Chief Building Official" means the Chief Building Official appointed pursuant to subsection 3(2) of the Act and by By-Law of the Corporation of the Township of North Glengarry for the purposes of enforcement of the Act;

"Council" means the Council of The Corporation of the Township of North Glengarry;

"Enclosure" means a fence, wall or other structure, including doors and gates surrounding a privately owned outdoor swimming pool to restrict access thereto;

"Fence" means a structure or partition made of wood, metal or other substance and erected for the purpose of enclosing a piece of land or to guard an area against entry or to divide a piece of land into distinct partitions, and includes doors, gates and other closures;

"Finished Grade" means the elevation of the finished surface of the ground where it abuts a fence or structure.

"Permit" means written permission or written authorization from the Chief Building Official to erect enclosures around pools as regulated by this by-law.

"Pool" means a privately owned outdoor pool of water for swimming, bathing, wading or reflecting which is capable of retaining a water depth equal to or greater than 500mm (19") at any point, but shall not include facilities for the purposes of providing water to livestock or for irrigation of crops which are associated with and located on land devoted to the practice of farming;

"Owner" includes the person for the time being managing or receiving the rent of or paying the municipal taxes on the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let. The term shall also include a lessee or occupant of the property.

"Township" means the Corporation of the Township of North Glengarry.

Part 2 GENERAL REQUIREMENTS

- 2.1 Every owner of a privately-owned outdoor swimming pool shall ensure that an enclosure around such a pool is constructed and maintained according to the provisions of this by-Law.
- 2.2 No person shall place water in a swimming pool in the Township unless the prescribed fences and gates or, for a maximum period of thirty days, a temporary fence as approved by the Chief Building Official has been erected in accordance with the provisions of this by-law.
- 2.3 No person shall allow water to remain in a swimming pool in the Township unless the prescribed enclosures and gates or temporary fence has been erected in accordance with the provisions of this by-law.
- 2.4 No person shall fill a swimming pool with water or permit water to collect or remain in a swimming pool until the Chief Building Official or the Building Inspector has conducted an inspection and confirmed completion of a permanent swimming pool enclosure that fully complies with the provisions of this by-law.

Part 3 PERMITS

- 3.1 No person shall construct or place a swimming pool on his property in the Township without first obtaining a swimming pool enclosure permit.
- 3.2 Except as otherwise permitted by the Chief Building Official, every application shall:
 - a) identify and describe in detail the work to be covered by the permit for which an application is made;
 - b) describe the land on which the pool is to be located by a description that will readily identify and locate the building lot;
 - c) be accompanied by two (2) complete set of plans showing details of the enclosure as well as its relationship to lot lines, buildings, accessory buildings, decks, mechanical equipment and fences;
 - d) be accompanied by the fee as prescribed in section 4; and
 - e) state the names, addresses and telephone numbers of the owner and the contractor performing the work;

- f) an application for a permit may be deemed to have been abandoned and cancelled six (6) months after the date of filing, unless such application is being seriously proceeded with.
- 3.3 Despite Article 3.1 a permit is not required in the case of a pool which has been dismantled and is being reconstructed in the same position and the same manner in which was previously located provided that:
- a) a permit was obtained for the original installation, and
 - b) the reinstallation meets the requirements of all currently applicable by-laws

Part 4 FEES AND DEPOSIT

- 4.1 Fees and deposits shall be paid in accordance with the Fees and Charges by-law as amended.

Part 5 SWIMMING POOLS

- 5.1 A swimming pool is a permitted structure in association with a permitted residential use. Such swimming pool, and associated structures, may be erected and used in the required interior side yard or the required rear yard provided;
- a) pool areas shall be totally enclosed by a fence in accordance with section 6;
 - b) the maximum height of an above-ground pool shall not be more than 2 meters (6.5 ft) measured from top of grade to the top of the pool wall.
 - c) an open space of 1.2 meters (3.94 ft), save and except the deck must be maintained around all above ground pools.
 - d) in ground swimming pools shall be equipped with a ladder or stairs to allow entry and exit from pool.
 - e) diving platforms for in-ground swimming pool shall be installed at a maximum of 1 meter (3.25 ft) above the surface of the water and where the depth of the water is at least 3 meters (9.75 ft).
 - f) the depth is 1.5 meters (5 ft) in the location of a slide, and the slide is no taller than 3 meters (9ft) in height.
 - g) where steps or ladder, fixed or movable, are installed in conjunction with an above ground swimming pool, such facility shall be fenced at grade with fencing and gates meeting the construction detailed in section 6 or be capable of being locked to prevent entry into pool or have a devise attached to prevent climbing of the ladder when the pool is not in use.
 - h) where a pool deck or ramp or part thereof is located a distance greater than 1.8 meters (6ft) above grade, a handrail or balustrade shall be provided and maintained around the outer edge, having a height of at least 1070 mm (42 inches) above such deck or ramp.
 - i) where a pool deck or ramp or part thereof is located a distance not more than 1.8 m (6ft) above grade, a handrail or balustrade shall be provided and maintained around the outer edge, a height of at least 900 mm (36") above such deck or ramp.
 - j) there shall be no space greater than 100 mm (4") between the bottom of any fencing and/or gates and the finished grade beneath such fencing and/or gates(s).
 - k) a pool cannot be located closer than 1.5 meters (5 ft) to a septic tank/holding tank and not closer than 5 meters (16.5 ft) to a septic bed.

Part 6
ENCLOSURES

- 6.1 No person shall construct or place a swimming pool on his property in the Township without first obtaining a swimming pool enclosure permit.
- 6.2 Every swimming pool shall have an adequate enclosure erected around it in accordance with the provisions this subsection.
- 6.3 Every enclosure for a swimming pool shall be of a close-boarded, chain link or other approved design with maximum openings of 100mm (4") including the space below the fence, to reasonably deter children from climbing it to gain access to the fenced-in area.
- 6.4 In the case of an above ground pool, if the walls of the pool are less than 1.2m (4ft) high above the grade for a distance of at least 610mm (24") from the wall, the enclosure shall be at least 1.2m (4ft) in height or the walls of the pool can be extended with an approved manufactured fence for a total height of at least 1.2m (4ft) above the grade.
- 6.5 In the case of an in ground pool, the enclosure shall be at least 1.5m (5ft) in height
- 6.6 Gates in the enclosure shall:
- a) provide protection equivalent to the enclosure,
 - b) be at least the same height as the enclosure,
 - c) be equipped with a self-closing and latching device and lock at the upper inside of the gate, and
 - d) be locked except when the enclosed area is actually being used and supervised.
- 6.7 Any pool accessed by a patio deck or walk out connected directly to a dwelling unit shall be provided with an additional barrier and lockable gate of not less than 900mm (36") in height and with maximum openings of 100mm (4") for that portion in contact with the deck.
- 6.8 Barbed wire or fencing energized by electrical current shall not be used as an enclosure for the swimming pool.
- 6.9 A hedge or arrangement of trees does not constitute an enclosure.
- 6.10 Where a wall of a building is used as part of an enclosure, all doors located in the wall of the building shall be equipped with locking devices.
- 6.11 Except for the water circulating or treatment unit, equipment or materials cannot be located, stored or kept within 1 meter from the pool to prevent climbing.
- 6.12 Decks or platforms associated with pools shall comply with the requirements of the Ontario Building Code and the access to such decks or platforms must be adequately enclosed in accordance with this bylaw.
- 6.13 It is the responsibility of every property owner that already has a swimming pool to comply with this by-law.

Part 7
ENFORCEMENT

- 7.1 The Chief Building Official or the Building Inspector who finds a contravention of this by-law shall give written notice to the owner or occupant of the property requiring compliance with this by-law within a specified time.
- 7.2 The Chief Building Official or the Building Inspector may order the owner or occupant of the property to drain the swimming pool until such time as an inspection by an inspector has verified that the by-law contravention outlined in the written notice has been corrected.

- 7.3 The notice may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case the notice shall be deemed to have been served on the fifth day after it is mailed.
- 7.4 If there is evidence that the person in possession of the property is not the registered property owner, the notice shall be served on both the registered property owner and the person in possession of the property.
- 7.5 If an owner or occupant fails to comply with a notice under subsection 7.2, the Township may enter upon the owner's property or occupant's property at any reasonable time for the purpose of draining the swimming pool of water. The Corporation shall have a lien for any amount expended by or on behalf of the Corporation and for an administrative fee of fifteen (15%) percent of any amount expended by or on behalf of the Corporation. The total amount expended and such total amount together with the administrative fee shall be added to the collector's roll of taxes to be collected and shall be subject to the same penalty and interest charges as real property taxes and shall be collected in like manner and with the same remedies as real property taxes.

Part 8 OFFENCES

- 8.1 No person shall:
- a) install a pool without a permit issued by the Chief Building Official;
 - b) cause the installation of a pool without a permit issued by the Chief Building Official;
 - c) occupy a pool or permit it to be occupied without approval from the Township's building department;
 - d) fail to construct or maintain a pool enclosure as prescribed in section 6 of this by-law;
 - e) permit water to be placed in a pool without the properly prescribed fences and gates;
 - f) fail to provide temporary fencing during pool construction;
 - g) fail to totally enclose pool area with fence;
 - h) install a pool for which the height of above pool exceeds 2 meters;
 - i) install a diving platform where depth of the water is less than 3 meters;
 - j) fail to respect minimum depth of pool at the location of the slide;
 - k) fail to respect the maximum height of the slide
 - l) permit above-ground pool to have a slide or diving platform
 - m) fail to provide fence, gate or other device to prevent climbing of the ladder for an above-ground pool;
 - n) fail to locate pool 1.5 meters or greater from a septic holding tank;
 - o) fail to locate pool 5 meters or greater from a septic bed;
 - p) fail to provide prescribed hardware on access door leading from a accessory building to the swimming pool area;
 - q) fail to lock gate while pool was unsupervised.
- 8.2 No person shall:
- a) obstruct the visibility of or remove a posted notice without authorization from the Chief Building Official or the Building Inspector; and
 - b) hinder or obstruct, or attempt to hinder or obstruct, a Chief Building Official, a Building Inspector or a By-Law Enforcement Officer in the exercise of a power or the performance of a duty under the Act or this by-law.

Part 9 PENALTIES

- 9.1 Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to:
- a) a set fine as set out in Schedule "A"; or
 - b) a fine as provided for in section 61 of the Provincial Offences Act, R.S.O 1990, c. P.33.
- 9.2 Where a person is convicted of an offence under this by-law, the Ontario court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 9.3 If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law, and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.
- 9.4 Where a provision of this by-law conflicts with the provision of another by-law in force within the Township, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

**Part 10
REPEAL**

- 10.1 By-Law 03-2015 is hereby repealed.
- 10.2 This By-law shall come into force upon the date of passing by Council.

READ a first, second, third time and enacted in Open Council, this 25th day of January, 2016.

CAO/Clerk

Mayor

I hereby certify this to be a true copy of by-law No. 06-2016, and that such by-law is in full force and effect.

Date Certified

Clerk / Deputy Clerk

SCHEDULE "A"

**Township of North Glengarry
Part 1 Provincial Offences Act
Bylaw 06-2016: Pool Bylaw**

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offence	Column 3 Set Fines
1.	Install a pool without a permit	8.1(a)	\$300.00
2.	Cause the installation of a pool without a permit	8.1(b)	\$300.00
3.	Occupy a pool or permit it to be occupied without approval	8.1(c)	\$250.00
4.	Fail to construct or maintain pool enclosure	8.1(d)	\$250.00
5.	Permit water to be placed in pool without enclosure	8.1 (e)	\$150.00
6.	Fail to provide temporary fencing	8.1(f)	\$150.00
7.	Fail to totally enclose pool area with fence	8.1 (g)	\$250.00
8.	Height of pool exceeds 2 meters	8.1(h)	\$200.00
9.	Fail to respect minimum depth of pool at location of diving platform	8.1(i)	\$200.00
10.	Fail to respect minimum depth of pool at location of slide	8.1(j)	\$200.00
11.	Fail to respect maximum height of slide	8.1(k)	\$200.00
12.	Permit above-ground pool to have slide or diving platform	8.1(l)	\$200.00
13.	Fail to install device to prevent climbing of ladder	8.1(m)	\$150.00
14.	Fail to locate pool 1.5meters from septic tank	8.1(n)	\$250.00
15.	Fail to locate pool 5 meters from septic bed	8.1(o)	\$250.00
16.	Fail to provide prescribed hardware on access door	8.1 (p)	\$150.00
17.	Fail to lock gate while pool was unsupervised	8.1(q)	\$150.00
18.	Obstruct the visibility of or remove a notice	8.2(a)	\$450.00
19.	Obstruct an inspector	8.2(b)	\$500.00

Note: the general penalty provision for the offences listed above is section 9 of bylaw #06-2016, a certified copy of which has been filed and section 61 of the Provincial Offences Act, R.S.O. 1990,c.P.33.

