

	<b>The Corporation of the Township of Hamilton</b>
	<b>By-law Number 2026-20</b>

**Being A By-law to Regulate and Require the Enclosure of Outdoor Swimming Pools and Repeal By-law 2019-34**

**WHEREAS** section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the “Municipal Act”) authorizes a municipality to pass By-laws respecting fences;

**AND WHEREAS** section 11(2) of the Municipal Act authorizes a municipality to regulate matters related to health, safety and well-being of the inhabitants of the municipality;

**AND WHEREAS** Section 434.1 of the Municipal Act authorizes the Township to require a Person, subject to such conditions as the municipality considers appropriate, to pay an Administrative Penalty if the municipality is satisfied that the Person has failed to comply with a By-law of the municipality passed under the Municipal Act; and

**AND WHEREAS** in accordance with the Municipal Act the Township has passed Administrative Monetary Penalty System By-law 2026-17, being Administrative Monetary Penalty System By-law;

**AND WHEREAS** subsection 391(1) of the Municipal Act, 2001 provides that a municipality may impose fees and charges on persons; and

**Now therefore** be it resolved that the Council of The Corporation of the Township of Hamilton enacts as follows:

**SHORT TITLE**

This By-law may be referred to and cited as the “Pool Enclosure By-law”.

**DEFINITIONS**

In this By-law:

“Enclosure” means a fence, wall or other structure, including doors and gates, completely surrounding a pool.

“Owner” means lessee, tenant or person in possession of property on which a pool is located.

”Privately-owned outdoor swimming pool”, hereafter referred to as a pool, means any privately-owned body of water located outdoors, contained in part or in whole by artificial means in which the depth of water at any point can exceed 0.6 metres (2 feet) and which is used or capable of being used for swimming, diving or bathing.

“Temporary pool” means an inflatable pool or other pool which is designed to be removed periodically on a seasonal or more frequent temporary basis in which the depth of water at any point can exceed 0.6 metres (2 feet) and which is used or capable of being used for swimming, diving or bathing.

**GENERAL PROVISIONS**

- 1) No person shall construct or install a pool, cause a pool to be constructed or installed, commence the construction or installation of a pool without first obtaining a pool enclosure permit.

- 2) No person shall fill a pool with water or allow a pool to be filled with water or allow water to remain in a pool unless;
  - a. the pool is enclosed by a pool enclosure meeting the requirements of this By-law; and
  - b. if the pool is a newly constructed pool, the township has been notified and the pool enclosure has been inspected and approved.
- 3) No person shall remove any part of a pool enclosure if the pool is filled with water.
- 4) No person shall alter or replace a pool enclosure without having first obtained a permit from the Township.
- 5) Such enclosure shall extend from the ground level to a height of not less than 1.5 meters or five (5) feet.
- 6) A fence forming part of an enclosure shall;
  - a) Be located not closer than 1.2 metres (4 feet) from the pool;
  - b) Have no rails, horizontal or diagonal bracing or other attachments on the outside that would facilitate climbing;
  - c) In no part consist of barbed or electric wire or other material having similar dangerous characteristics and no device for projecting an electric current through said fence;
  - d) Have no openings when all gates are closed that allow the passage of a spherical object larger than 0.1 metres (4 inches) in diameter; and
  - e) If of chain link construction be;
    - i. Of not greater than 0.05 metres (2 inch) diamond mesh;
    - ii. Constructed of galvanized wire not less than thirteen 13-gauge diameter; and
    - iii. Supported on substantial posts of wood or steel not more than 2.4 metres (8 feet) apart at least 0.6metres (2) feet in depth below ground level; or
  - f) If of wood construction be;
    - i. Of vertical boarded construction attached to supporting members; and
    - ii. Supported on substantial posts not more than 2.4metres (8 feet) apart which are embedded at least 0.9metres (3 feet) in depth below ground.
  - g) If of any other material and construction, provide an equivalent degree of safety as that of chain link or wood construction. Wood lattice shall not form any part of the required fence enclosure.
- 7) Gates forming part of an enclosure 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 self latching devices placed at the top of said gates.
- 8) Any door providing access from a building forming part of an enclosure, other than a door located in a dwelling or rooming unit, shall be self-enclosed and equipped with a self-latching device located not less than 1.5metres (5 feet) above the bottom of the door.
- 9) Every gate providing access to a pool shall be kept locked at all times when a responsible person is not present and supervising the pool.

## **SPECIAL PROVISIONS**

1. Notwithstanding anything contained herein, an enclosure shall not be required where the outside wall of the pool is elevated at least 1.5metres (5 feet) above the grade of the ground abutting such wall and each and every entrance to a pool is protected by a gate at least 1.5metres (5 feet) high and having self-closing, self-latching devices.
2. The provisions of this By-law shall apply to all pools regardless of the date of construction.
3. In the event the owner does not comply with Section 4.04 of this By-law, the municipality may in addition to issuing a Penalty Notice, drain the pool, at the owner's expense, or take whatever action is deemed necessary for public safety.
4. Notwithstanding Section 3.02 (a) of this By-law, if a pool enclosure is damaged and requires replacement or repair, water may remain in a pool enclosed by a temporary pool enclosure with permission of the Township pending the replacement or repair of the pool enclosure, subject to any time limits which may be set.

## **TEMPORARY POOLS**

Notwithstanding any part of this By-law, if a pool enclosure permit has been obtained with respect to the pool enclosure for a temporary pool, the temporary pool may be reinstalled and refilled with water without additional permits or inspection(s) provided there have been no alterations to the pool enclosure and the pool location conforms with this By-law.

## **INSPECTION**

The Township may, at any reasonable time, enter and inspect any land to determine whether this By-law, an order under this By-law or a condition to a Permit issued under this By-law is being complied with.

## **ADMINISTRATION**

Any related penalty schedule(s) referred to in the Administrative Monetary Penalty System By-law shall be deemed to be part of this By-law.

## **ADMINISTRATIVE PENALTIES**

1. Sections 1 to 9 of this By-law are hereby designated to which the Administrative Monetary Penalty System By-law applies.
2. An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, may issue a penalty notice to the Owner.
3. Any person who contravenes any provision of this By-law shall upon issuance of a penalty notice in accordance with the Administrative Monetary Penalty System By-law, be liable to pay an administrative penalty and any administrative fees, in accordance with the Administrative Monetary Penalty System By-law.
4. Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Township in the scheduled amount.

5. A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Township Administrative Monetary Penalty System By-law.
6. Service of any penalty notice, order, or any other notice may be given as specified in the Township Administrative Monetary Penalty System Bylaw.

**SEVERABILITY**

If a court of competent jurisdiction declares any provisions or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of the Council in enacting this By-law that each and every other provision of this By-law authorized by law, be applied and enforce in accordance with its terms to the extent possible according to law.

7. This By-Law may be referred to as the “Pool Enclosure By-Law”.
8. That By-2019-34, and any subsequent amendments, be repealed in its entirety.
9. This By-Law 2026-19 shall come into force and take effect upon the date passed by from Council.

This By-Law given a First, Second and Third Reading and Finally Passed this 21st day of April 21, 2026.

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**Scott Jibb, Mayor**

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**D. Livingstone, Municipal Clerk**