

**THE CORPORATION OF THE
MUNICIPALITY OF WAWA**

BY-LAW NO. 2471-11

BEING A BY-LAW to adopt Policy No. PE-009: Fence Policy in the Municipality of Wawa.

WHEREAS the *Municipal Act, 2001*, S.O. 2001, Chapter 25, Section 8, provides the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;


AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, Section 9, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Municipality of Wawa deems it desirable to enact a policy via by-law that regulates and governs fences within the community;


NOWHEREFORE the Council of The Corporation of the Municipality of Wawa enacts the following as a By-Law:

1. THAT Policy No. PE-009: Fence Policy, herein attached as Schedule "A" to this By-Law and forming an integral part of this By-Law, be adopted.
2. THAT the Mayor and Clerk be and are hereby authorized to sign this By-Law and to affix the corporate seal thereto.
3. THAT this By-Law is enacted upon the third and final reading hereof.

READ a first and second time this 7th day of June, 2011.




LINDA NOWICKI, MAYOR




CHRIS WRAY, CLERK

READ a third time and finally passed this 28th day of June, 2011.





LINDA NOWICKI, MAYOR



CATHY CYR, DEPUTY CLERK



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POLICY TITLE: Fence Policy	SUBJECT: Govern and regulate fences.
Policy Section: Protection and Enforcement	Policy No. PE-009
Effective Date: June 28, 2011	Enacted By: By-Law No. 2471-11

Section A

Preamble

- 1.0.0 The Council of The Corporation of the Municipality of Wawa deems it desirable to enact a policy via by-law that regulates and governs fences within the Municipality of Wawa.
- 2.0.0 The Council of The Corporation of the Municipality of Wawa has the legislative authority to enact such by-laws and as such will ensure a regular review of this policy is completed.

Section B

Policy Statement

- 1.0.0 It shall be the policy of the Municipality of Wawa to protect the safety and security of all residents through the regulating and governing of fences within the Municipality of Wawa.
- 2.0.0 It shall be the policy of the Municipality of Wawa that this policy is reviewed and updated on a regular basis.
- 3.0.0 This By-law shall be administered by the Chief Building Official or designate.
- 4.0.0 This By-law may be cited as the "Fence By-law".



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Section C

Definitions

- 1.0.0 **“Chief Building Official”** means the Chief Building Official or designate of the Corporation of the Municipality of Wawa.
- 2.0.0 **“Construct”** means to do anything in the erection, installation, extension, material alteration or repair of a fence and “construction” has a corresponding meaning.
- 3.0.0 **“Council”** means the Council of the Corporation of the Municipality of Wawa.
- 4.0.0 **“Fence”** means any barrier of posts, wood, wire, steel, plastic, masonry, concrete or other similar materials or combinations of such materials which is constructed for the purpose of delineating, screening, safeguarding or enclosing and “pool fence” has a corresponding meaning.
- 5.0.0 **“Gate”** means a swinging or sliding barrier used to fill or to close an access and includes a door.
- 6.0.0 **“Grade”** means the elevation of the finished surface of the ground where it abuts a fence or pool fence.
- 7.0.0 **“Height”** means the distance measured from grade at any particular location and the highest part of the fence, exclusive of the posts, at that specific location.
- 8.0.0 **“Hot Tub”** means hot tub, jacuzzi, whirlpool, spa or other similar device equipped with a locking cover made of a rigid material placed over the opening at all times when the hot tub is not in use.
- 9.0.0 **“Municipality”** means The Corporation of the Municipality of Wawa.
- 10.0.0 **“Owner”** means the person or persons identified in the most recent tax roll as the owner of the property.



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- 11.0.0 **“Permit”** means written permission or authorization from the *Chief Building Official* to perform work regulated by this by-law.
- 12.0.0 **“Pool Area”** means the swimming pool and any surrounding platforms, walkways, play areas and landscaped areas within the pool fence enclosing a swimming pool.
- 13.0.0 **“Pool Fence”** means a fence surrounding a swimming pool area. A pool fence may include a gate.
- 14.0.0 **“Swimming Pool”** means any body of water in-ground or above ground contained by artificial means, in which the depth of the water at any point can exceed 61 centimetres that is used or is capable of being used for swimming, wadding or bathing, but does not include a hot tub.
- 15.0.0 **“Self-Closing Device”** means a mechanical device or spring which returns a gate to its closed position within 30 seconds after it has been opened.
- 16.0.0 **“Self-Latching Device”** means a mechanical device or latch which is engaged each time the gate is secured to its closed position; which will not allow the gate to be re-opened by pushing or pulling and which will ensure the pool fence gate remains closed until unlatched by either lifting or turning the device itself directly or by a key.
- 17.0.0 **“Visible Triangle”** means a triangle formed by measuring 4.5 metres from where lot lines intersect down both lot lines abutting a street or a driveway.



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Section D

Regulations

1.0.0 GENERAL PROVISIONS

- 1.1.0 No person shall construct a fence or a pool fence unless a permit has been issued by the *Chief Building Official*. Classes of permit with respect to the construction of a fence or a pool fence shall be set out in Schedule “A” to this by-law.
- 1.2.0 Electrified fences or fences constructed with barbed wire, metal spikes or any other sharp pointed material are prohibited in the municipality except on those properties described in Schedule “C” to this by-law
- 1.3.0 No person shall construct or maintain a barbed wire, electrical or any other fence in such way that there is a possibility that any person will be injured.
- 1.4.0 No barbed wire or other sharp material shall be closer to the ground than 2.1 metres.
- 1.5.0 Snow fencing shall not be erected or caused to be erected for a period exceeding six (6) months in any year.
- 1.6.0 Fees for a required permit shall be set out in Schedule “A” to this by-law and are due and payable in full upon submission of an application for a permit and no permit shall be issued until the full fee is paid.
- 1.7.0 Permit fees shall be doubled if construction of a fence or a pool fence has started before the permit is issued.
- 1.8.0 Payment of double fees will not relieve any person from fully complying with the provisions of this by-law and shall not be construed to authorize construction of a fence or pool fence



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2.0.0 PERMIT APPLICATION

2.1.0 To obtain a permit, the owner or agent authorized by the owner shall file an application in writing by completing a prescribed form available from the Chief Building Official or from the Municipality of Wawa website www.wawa.cc. Forms prescribed by the Municipality shall be set out in Schedule “B” to this By-Law.

3.0.0 PLANS AND SPECIFICATIONS

3.1.0 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed fence or pool fence will conform to this by-law and to any other applicable law.

3.2.0 Each application for a permit shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of plans and specifications required under this by-law.

3.3.0 Plans shall be drawn to scale, be legible and without limiting the generality of the forgoing and shall include such working drawings as set out in Schedule “D” of this by-law unless otherwise specified by the Chief Building Official.

3.4.0 Where required to demonstrate compliance with this by-law or other applicable law, a copy of an up to date survey shall be submitted to the Chief Building Official.



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3.4.1 Site plans shall show:

- a) The lot size and the dimensions of the property lines;
- b) The exact location of the proposed fence or pool fence including the location of any gates;
- c) The existing grade level and proposed grade level;
- d) The location and dimension of driveways, existing right of ways and easements on the property and abutting properties;
- e) The location and dimension of the pool area and of the swimming pool including the location of any equipment associated with the swimming pool;
- f) Structural details for decks, platforms or other structures associated with the swimming pool;
- f) Location and dimensions of wells and septic systems; and
- g) Any other information as may be prescribed by the Chief Building Official from time to time.

4.0.0 REVISIONS TO PERMIT

4.1.0 After the issuance of a permit under this by-law, notice of any material change or other information on the basis of which the permit was issued, must be given in writing, to the Chief Building Official together with the details of such change, which is not to be made without his or her written authorization.



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5.0.0 NOTICE REQUIREMENTS FOR INSPECTIONS

5.1.0 The person to whom a permit is issued under Section 1.1.0 to this by-law shall give notice to the Chief Building Official of:

- a) Readiness to construct the fence or the pool fence;
- b) Substantial completion of the fence; and
- c) Substantial completion of a pool fence prior to placing water in a swimming pool.

6.0.0 REVOCATION OF PERMIT

6.1.0 The Chief Building Official may revoke a permit if:

- a) it was issued on mistake, false or incorrect information;
- b) it was issued in error;
- c) the holder requests in writing that it be revoked;
- d) after six months after the issuance the construction in respect to of which it was issued has not in the opinion of the Chief Building Official been seriously commenced; or
- e) the construction is in the opinion of the Chief Building Official substantially suspended or discontinued for a period of more than six months.



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7.0.0 FENCES IN RESIDENTIAL ZONES

- 7.1.0 The maximum height of a fence located in a front yard shall be not more than 0.91m.
- 7.2.0 The maximum height of a fence located in a side yard and/or a rear yard abutting the street shall not be more than be 1.9 metres except that where any portion of the fence is located within the visible triangle such fence shall not exceed shall not exceed 1 metre.
- 7.3.0 Where a driveway intersects the side or rear lot line which abuts a street, the intersecting point shall be considered in the same manner as the rear exterior corner and the fence constructed in the same manner as outlined in Section 7.2.0 above.
- 7.4.0 The maximum height of any fence not mentioned above shall not exceed 1.9 metres.

8.0.0 FENCES IN COMMERCIAL AND INSTITUTIONAL ZONES

- 8.1.0 The maximum height of a fence located in the front yard shall not exceed 1 metre;
- 8.2.0 The maximum height of a fence located in a side yard and/or a rear yard abutting the street shall not be more than be 1.9 metres except that where any portion of the fence is located within the visible triangle such fence shall not exceed 1 metre;
- 8.3.0 The maximum height of a fence in any other yard, the maximum height shall not exceed 1.9 metres.
- 8.4.0 Notwithstanding Section 8.1.0 and Section 8.2.0, where a chain link fence is located in the front yard or within the visibility triangle and no obstruction, netting or other similar material is fastened, interweaved or otherwise attached to the fence; such fence shall not exceed 1.9 metres.



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9.0.0 FENCES IN INDUSTRIAL AND OTHER

- 9.1.0 The maximum height of a fence located in the front yard shall not exceed 1 metre.
- 9.2.0 The maximum height of a fence located in a side yard and/or rear yard abutting a street shall not be more than 2.5 metres except that where any portion of the fence is located within the visible triangle such fence shall not exceed 1metre.
- 9.3.0 Notwithstanding Section 9.1.0 and Section 9.2.0, where a chain link fence is located in the front yard or within the visible triangle and no obstruction, netting or other similar material is fastened, interweaved or otherwise attached to the fence; the maximum height of such fence shall not exceed 2.5 metres.
- 9.4.0 The maximum height of a fence in any other yard shall not exceed 2.4 metres.

10.0.0 POOL FENCES

- 10.1.0 No person shall construct, place, install or maintain a swimming pool within the Corporation of the Municipality of Wawa unless the entire swimming pool area is effectively enclosed by a pool fence in compliance with the requirements of this by-law.
- 10.2.0 No person shall place water in a swimming pool within the Corporation of the Municipality of Wawa unless the entire pool area is effectively enclosed by a pool fence in compliance with the requirements of this by-law.
- 10.3.0 Every pool area shall be enclosed by a pool fence in compliance with this by-law;
- 10.4.0 A swimming pool area shall not be located in the front yard, in the side yard abutting a street or within the visible triangle;
- 10.5.0 The height of a pool fence, including any gates, shall be not less than 1.5 metres.



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- 10.6.0 The pool fence shall commence no more than 76 millimetres above finished grade measured at any point directly below the lowest portion of the pool fence.
- 10.7.0 The pool fence shall be vertically boarded wood construction, solid wood construction, 38 millimetres chain link construction, masonry, plastic or metal construction or other materials and construction of an equivalent degree of strength and safety; provided however that horizontal basket weave fencing shall not be permitted.
- 10.8.0 The pool fence shall have no openings with horizontal dimensions greater than 38mm.
- 10.9.0 The pool fence shall be so constructed that all horizontal or diagonal structural members of the pool fence shall be located on the inside or the pool area side of the pool fence.
- 10.10.0 The pool fence shall be constructed that it cannot be used in a manner similar to a ladder from the outside.
- 10.11.0 The pool fence shall contain no device for projecting electric current through the pool fence, no barbed wire, metal spikes or any other sharp pointed materials.
- 10.12.0 The pool fence shall be constructed so as to have the only means of entry by a gate.
- 10.13.0 The pool fence shall not be located closer than 1 metre to any structure that facilitates climbing.
- 10.14.0 The pool fence shall not be located closer than 1 metre to the swimming pool's edge.



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- 10.15.0 Gates forming part of a pool fence shall:
- a) be constructed and have a height equivalent to that required for the pool fence;
 - b) be supported on substantial hinges;
 - c) be equipped with a self-closing device and a self-latching device and such devices shall be maintained in proper working order at all times.
- 10.16.0 Every self-latching device shall be installed on the inside or the pool area side of the pool fence and such device installed not less than 1.2 metres above the grade.
- 10.17.0 Every gate shall be latched closed at all times except when a person is walking through the gate.
- 10.18.0 A pool fence shall be constructed so as not to facilitate climbing with gaps not exceeding 38 millimetres.
- 10.19.0 A boundary fence which complies with the provisions of this by-law shall be deemed a sufficient pool fence.
- 10.20.0 A wall or walls of a building or buildings located on the same property as that of the pool area may form part of a pool fence provided that:
- a) all doors affording access to the pool area from a building directly into a swimming pool area, except doors providing access directly out of a dwelling unit shall be equipped with a self closing device and a self latching device located not less than 1.2 metres above the bottom of the door.
 - b) all windows opening into the pool area except windows serving a dwelling unit shall be equipped with a mechanism capable of controlling the free swinging or sliding of the openable part of the window so as to limit any



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clear unobstructed opening to not more than 100 millimetres measured either vertically or horizontally.

10.22.0 Where a deck, platform or other structure is erected at or near the rim level of an above ground swimming pool and the difference in elevation between the walking surface and adjacent grade exceed 600mm, the open sides shall be protected by guards installed in accordance with the requirements of the Ontario Building Code.

11.0.0 CONFLICT OF BY-LAWS, CODES, REGULATIONS

11.1.0 Where the provisions of this by-law conflict with a provision of any other by-law in effect in the Municipality or any applicable government regulation, the provision that establishes the higher standard shall prevail.

12.0.0 VALIDITY

12.1.0 Should any section, 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 the by-law as a whole or any part thereof, other than the part so declared to be invalid.

13.0.0 PENALTY

13.1.0 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.

14.0.0 REPEAL OF EXISTING BY-LAW

14.1.0 By-Law No. 973-95 as amended is repealed



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Schedule "A"
CLASSES OF PERMITS
AND PERMIT FEES
(Forming part of Section D, Subsections 1.1.0 and 1.6.0)

	CLASS OF PERMIT	FEES
1.	<i>Fence Permit</i>	<ul style="list-style-type: none">As per the Fees and Tariffs (Charges) By-Law in place at the time the permit is applied for.
2.	<i>Pool Fence Permit</i>	<ul style="list-style-type: none">As per the Fees and Tariffs (Charges) By-Law in place at the time the permit is applied for.
OTHER PROCEDURES		
3.	<i>Re-inspection</i>	<ul style="list-style-type: none">As per the Fees and Tariffs (Charges) By-Law in place at the time the permit is applied for.



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Schedule “B”
PRESCRIBED FORMS
(Forming part of Section D, Subsection 2.1.0)

Form 1, Application to Construct a Fence

Form 2, Applications to Construct a Pool Fence

Form 3, Notice of Violation

Form 4, Order to Comply

Form 5, Stop Work Order



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Schedule “C”
(Forming part of Section D, Subsection 1.2.0)

- 1. Restricted Industrial Zones (M-2) as identified in the Municipality of Wawa Zoning by-law, as mended;**
- 2. All Great Lake Power Limited power generating stations or land and/or water leases;**
- 3. All Algoma Power Inc. electrical substations and transfer switches;**
- 4. 171 Golf Course Road - The Corporation of the Municipality of Wawa sewage lagoons**
- 5. 27-A Mission Road, The Corporation of the Municipality of Wawa Municipal Airport;**
- 6. 86 Magpie Road, Michipicoten High School propane storage enclosure only;**
- 7. 125 Mission Road, propane storage enclosure only;**
- 8. 48 Mission Road, Ministry of Natural Resources storage compound only;**
- 9. 683-C Highway 17N, Body Lines by Crack vehicle storage compound only**
- 10. 5 Sinter Plant Road, Imperial Esso, bulk storage facility;**
- 11. Essar Steel – Entrance to the former Helen Mine property;**
- 12. Essar Steel – Entrance to the former sinter plant property;**
- 13. Industrial Park, only fenced in storage compounds for properties located on Mills Drive;**



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14. Industrial Park, only fenced in storage compounds for properties located on White Drive;
15. Any other location as approved by resolution of Municipal Council;



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Schedule “D”
LIST OF PLANS AND WORKING DRAWINGS TO
ACCOMPANY APPLICATIONS FOR PERMITS
(Forming part of Section D, Subsection 3.3.0)

1. Site Plan;
2. Complete structural details for decks, platforms, stairs, ramps or other structure associated with the swimming pool area;
3. Complete details, specifications and type for the proposed fence or proposed pool fence; and
4. Cross section drawing indicating individual components of the fence, sizes, spacing and height of the fence.

Note: The Chief Building Official may specify that not all the above-mentioned plans are required to accompany an application for a permit.