

THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER 2022 - 70

BEING A BY-LAW TO REGULATE SWIMMING POOL ENCLOSURES WITHIN THE CITY OF WELLAND; AND TO REPEAL BY-LAW 2010-119 AND ALL AMENDMENTS THERETO

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 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 446 of the **Municipal Act** provides that where a municipality has the authority under the **Municipal Act** or a by-law pursuant to the **Municipal Act** to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing can be done at the person's expense and the municipality can recover the costs of doing the matter or thing from the person directed or required to do so by action or by adding the costs to the tax roll and collecting then in the same manner as property taxes.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

SECTION 1 ADMINISTRATION

1.1. **ADMINISTRATION, INTERPRETATION AND ENFORCEMENT**

1.2. This By-law shall be administered by the Chief Building Official in accordance with the terms and provisions as set out.

1.3. **SHORT TITLE**

1.3.1. This By-law may be cited as the "Swimming Pool Enclosure By-law".

1.4. **SCOPE**

1.4.1. This By-law applies to all property in the City of Welland unless otherwise indicated herein.

1.5. **ENFORCEMENT**

1.5.1. Where any person fails to comply with any provision set out in this By-law, an Order may be issued to that person and the Owner requiring compliance within the timeframe specified in the Order.

1.5.2. An Inspector who finds that a property does not conform with any of the standards prescribed in this By-law may make an Order,

- (a) stating the municipal address or the legal description of the property.
 - (b) giving reasonable particulars of the repairs to be made or stating that a Pool Enclosure Permit shall be obtained or that a Pool Enclosure shall be erected; and
 - (c) indicating the time for complying with the terms and conditions of the Order and giving notice that, if the Order is not complied with within that time, the municipality may carry out the Order at the owner's expense.
- 1.5.3. An Order may be personally delivered or served by registered mail. Where an Order is mailed, the Order shall be deemed delivered on the earlier of receipt of the Order by the addressee or the fifth (5th) day following the date of mailing, whether received or not.
- 1.5.4. Where an Order has been issued by an Inspector and compliance has not been achieved within the required time period as set out in the Order the City may, through its employees and agents or persons acting on its behalf, enter upon the land to carry out the necessary measures to comply with the Order or to drain, fill in or fence the Pool at the expense of the person and any and all expenses incurred may be added to the tax roll of the subject property and collected from the owner of the subject property in the same manner as municipal taxes, or in any other manner available to the City, including by action.
- 1.5.5. Every Owner shall comply with an Order issued pursuant to Section 1.5 of this By-law and within the timeframe specified therein for compliance.
- 1.5.6. Where anything required to be done in accordance with this bylaw is not done, the Chief Building Official or persons designated by the Chief Building Official for the City of Welland, appointed pursuant to the Building Code Act, may upon such notice as deemed suitable, do such a thing at the expense of the person required to do it and in doing so, may charge an administration fee of 15% of such an expense, within the minimum fee of \$168.00 and both the expense and the fee may be recovered from the security deposit held by the City, by action or in like manner as municipal taxes.
- 1.6. **PENALTY**
- 1.6.1. Every person who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction, is liable to the penalties as prescribed by the *Provincial Offences Act*, R.S.O. 1990 c. P.33.
- 1.6.2. Administrative Penalty By-law 2019-134 applies to each administrative penalty issued pursuant to this By-law.
- 1.6.3. Any person who contravenes any provision of this By-law shall, upon the issuance of a penalty notice in accordance with Administrative Penalty By-law 2019-134, be liable to pay to the City an administrative penalty in accordance

with the penalties set out in Schedule "D" attached.

1.7. SEVERABILITY

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

1.8. COMPLIANCE WITH OTHER BY-LAWS AND REGULATIONS

1.8.1. This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

1.8.2. If there is a conflict between a provision in this By-law and a provision of any other City By-law, the provision that establishes the highest standard to protect the health and safety of the public shall apply.

1.9. GENDER AND NUMBER

1.9.1. In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

1.10. MEASUREMENTS

1.10.1. Where this By-law provides metric and imperial units of measure, the metric unit of measure shall prevail. For convenience only, approximate imperial measurements have been provided in parentheses but are of no force or effect. The abbreviation "mm" stands for millimeters, "m" stands for metres, "in." stands for inches and "ft." stands for feet.

1.11. AND/OR

1.11.1. The word "and" is an inclusive conjunction, the use of which indicates that all items or phrases in the subsection, article, or list in which it appears are permitted or required. The word "or" is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word "or" may also be an inclusive conjunction having the same meaning as the word "and".

1.12. APPLICATION OF THIS BY-LAW AND REPEAL OF EXISTING BY-LAWS

1.12.1. By-law 2010-119 and all amendments thereto is hereby repealed. The Standards contained in this By-law supersede prior By-laws herein noted and their regulations.

1.13. **EFFECTIVE DATE**

- 1.13.1. This By-law shall come into force on the date of passage by the City's Council.

SECTION 2 DEFINITIONS AND INTERPRETATIONS

In this By-law the following words shall have the following meanings:

- 2.1. "Chief Building Official" shall mean the person appointed by the City Council to such position pursuant to the Building Code Act.
- 2.2. Council" shall mean the Council of the Corporation of the City of Welland.
- 2.3. "City" shall mean The Corporation of the City of Welland.
- 2.4. "covering plate device" shall mean metal or plexiglass device which attaches to or forms part of a metal or wrought iron gate latching device, and which restricts access to the interior self latching device from the exterior of the gate.
- 2.4.1. "Easement" shall mean an unregistered or registered right in favour of another over the subject property for a specified purpose.
- 2.5. "grade" shall mean the surface of the ground below a Pool Enclosure at each location where a structural support is embedded in the ground.
- 2.6. "hot tub" shall mean a hot tub, jacuzzi, whirlpool, or spa.
- 2.7. "inflatable Pool" shall mean a Pool, as defined in this By-law, consisting of an air supported structure which contains or can contain water with a depth in excess of 0.61 metres (2 feet) at any point.
- 2.8. "Inspector" shall mean a Building Inspector appointed by the Council of the City.
- 2.9. "Landscape Pond" shall mean any body of water (including fishponds, water gardens and water fountains) contained in whole or in part by artificial means in which the depth of the water can exceed 0.6 metres (2 feet) at any point.
- 2.10. "Maintain" shall mean to carry out repairs of any part or parts of a swimming pool fence so that it can properly perform the intended function.
- 2.11. "Order" shall mean an order issued by an Inspector pursuant to Section 1.5.
- 2.12. "Owner" shall mean lawful owner of the property upon which a Pool or Pool Enclosure is located and any lessee, tenant, mortgagee in possession, or person occupying or in charge of said property.
- 2.13. "person" shall mean any natural person, firm, corporation, partnership, or association, and includes the Owner.

- 2.14. "Permit" or "Swimming Pool Enclosure Permit" shall mean a permit issued under this By-law.
- 2.15. "Replacement" shall mean the construction of a swimming pool fence that takes place of a swimming pool fence previously constructed.
- 2.16. "self-closing device" shall mean a mechanical device or spring which returns a Pool Enclosure gate to its closed position within 30 seconds after it has been opened.
- 2.17. "self-latching device" shall mean 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 Enclosure gate remains closed until unlatched by either lifting or turning the device itself directly or by a key.
- 2.18. "Standards" shall mean the standards for the construction and maintenance of Swimming Enclosures around Pools prescribed by Section 7 of this By-law.
- 2.19. "substantial repair" shall mean, with respect to gates, the repair or replacement of 50% or more of the components of the gate and with respect to fences, where any continuous line of fencing between two intersecting angles of any degree undergoes repair or replacement of 50% or more of the components of such line.
- 2.20. "Swimming Pool" shall mean a structure, basin, chamber, or tank containing or capable of containing water, and is designed to be used for swimming or wading and has a depth of more than 0.61 meters (24 inches) at any point; and
- (a) located outdoors on private property.
 - (b) wholly or partially contained by artificial shall mean.
 - (c) an open exposed water surface of at least 1 square metre (10.7 square feet); and includes a hot tub or landscape pond meeting the above criteria, but for purposes of this By-law does not include any Pool which is:
 - (i) under jurisdiction of the Building Code.
 - (ii) a pond or reservoir to be utilized for farming purposes or as part of a golf course.
 - (iii) a Pool owned by any public or government body, agency or authority.
 - (iv) an existing natural body of water or stream;
 - (v) a private owned stormwater management facility.
- 2.21. "Swimming Pool Enclosure" shall mean a fence other than a hedge or other

landscaping features, a wall or other structure, or combination thereof, including any door or gate, surrounding a Pool, and restricting access thereto.

2.22. "Temporary Pool" shall mean an inflatable pool or other Pool which is designed to be removed periodically on a seasonal or more frequent temporary basis.

2.23. "Zoning bylaw" means any bylaw administered by the City enacted pursuant to section 34 of the Planning Act, R.S.O. 1990, c.P.13, or a predecessor or successor thereof, as may be amended from time to time.

SECTION 3 GENERAL PROVISIONS

3.1. Subject to Section 4.1, this By-law shall apply to all Pools and Pool Enclosures constructed, existing or replaced, within the City of Welland.

3.2. Except as noted in Section 3.3, in the event of any conflict between the provisions of this By-law and any provision of the By-law 10545 (the Fence By-law), as may be amended or replaced from time to time, the provisions of this By-law shall prevail.

3.3. Notwithstanding Section 3.2,

- a) No conflict exists between the provisions of this By-law and the provisions of any other By-law or approval if it is possible to comply with both By-laws by choosing an alternate type, design or location for a Pool Enclosure or Pool.
- b) Nothing in this By-law permits the location of a Pool, deck, platform, or other structure in a location which is not permitted under the City of Welland Zoning By-law.

3.4. All repairs and maintenance of a Pool Enclosure required by the provisions of this By-law are the responsibility of the Owner and shall be carried out in a manner accepted as good workmanship in the trades concerned, utilizing materials suitable and sufficient for the purpose, and carried out in accordance with the industry specifications and requirements.

3.5. Any gate or any continuous line of fencing between two intersecting angles of any degree that is 50% or more in disrepair shall be replaced in its entirety to satisfy the standards contained in this By-law.

SECTION 4 EXISTING POOL ENCLOSURES

4.1. The provisions of this By-law shall not prevent the use of an existing Pool Enclosure if that Pool Enclosure was constructed prior to the effective date of this By-law in accordance with the regulations of By-law 10557, or any predecessor to that By-law and has been maintained continuously in accordance with those regulations.

4.2. When an existing Pool Enclosure is replaced or substantially altered, the replacement or altered Pool Enclosure shall be constructed in accordance with this By-law.

4.3. Where an existing Pool Enclosure has enclosed a Pool in accordance with the regulations that existed prior to the effective date of this By-law, and has been maintained continuously in accordance with those regulations, and that Pool Enclosure also marks the boundary between abutting properties, the shared portion of the Pool Enclosure between the abutting properties may form part of new Pool Enclosure for a Pool on the abutting property which shall be deemed to be in conformity with this By-law. All other portions of the new Pool Enclosure that enclose the newly constructed Pool shall meet the Standards set out in this By-law.

SECTION 5 PROHIBITIONS

5.1. 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 from the Chief Building Official.

5.2. No person shall undergo substantial repair to an existing Pool Enclosure without obtaining a Pool Enclosure Permit.

5.3. No person shall construct or install a Pool or cause a Pool to be constructed or installed which is not completely enclosed by a Pool Enclosure in accordance with this By-law.

5.4. No person shall construct or cause to be constructed any Pool Enclosure which does not conform to the requirements of this By-law or permit such non-conforming Pool Enclosure to continue to enclose a Pool.

5.5. No person shall fill a Pool with water or cause 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, other than an approved temporary Pool Enclosure, meeting the requirements of Section 7.1 of this By-law; and
- (b) if the Pool is a newly constructed Pool, the Chief Building Official has been notified and the Pool Enclosure has been inspected and approved by the City.

5.6. No person shall remove any part of a Pool Enclosure if the Pool is filled with water.

5.7. No person shall alter or replace a Pool Enclosure without having first obtained a Permit from the Chief Building Official.

5.8. Every Owner shall ensure that:

- (a) all gates forming part of the Pool Enclosure meet the standards of this By-law.
 - (b) doors providing direct access to a Pool area from an attached or detached garage, but excluding doors from a dwelling unit, are maintained with a self-closing device and with a self-latching device located not less than 1.5 m (5 ft.) above the bottom of the door.
 - (c) all gates forming part of a Pool Enclosure are locked when the area is not in active use.
 - (d) the lockable lid of any hot tub is closed and locked when the Pool area is not in active use unless the hot tub is within a locked Pool Enclosure meeting the requirements of this By-law.
- 5.9. No person shall place, pile, attach or lean any object or material against or near a Pool Enclosure so as to facilitate climbing of the Pool Enclosure, diminish the structural integrity of a Pool Enclosure or render the Pool Enclosure in non-conformity with the provisions of this By-law;
- 5.10. No person shall erect a fence adjacent to an existing Pool Enclosure that does not comply with the requirements of this By-law.
- 5.11. No person shall construct or install a Pool, Pool Appurtenances or cause a Pool or Pool Appurtenances to be constructed or installed within an easement.

SECTION 6 PERMIT APPLICATION

- 6.1. Every Application for a Pool Enclosure Permit shall be by the owner or his or her agent, in writing to the Chief Building Official on a form prescribed in Schedule "C" of the bylaw.
- 6.2. All such applications shall be accompanied by the following:
- a) Two (2) sets of plans showing the location of the Swimming Pool, all proposed Swimming Pool equipment (such as filters, slides and heaters) and proposed landscape features in relation to property lines, buildings (including decks and sheds), and any easements.
 - b) Complete details of the proposed Pool Enclosure, including the location and type of proposed fence and gate.
 - c) The Permit fee(s) specified in Schedule "A".
 - d) An undertaking to repair damage to City property as prescribed in Schedule "B" of the bylaw
 - e) A security deposit in a form acceptable to the City as prescribed in Schedule "A" to guarantee compliance with the undertaking,

- f) access route for construction of the Pool from any public right-of-way to the proposed Pool location; and
- g) INTENTIONALLY DELETED

- 6.3. The Chief Building Official shall issue a Permit for a Pool Enclosure where the plans submitted appear to comply with the requirements of this By-law and all applicable regulations and by-laws or approvals. Without limiting the generality of the foregoing, the Chief Building Official shall not issue the Permit for the Swimming Pool Enclosure unless a site alteration permit, if required, has been obtained and the proposed location of the Pool and Pool Enclosure complies with the zoning by-law and any other applicable regulations, by-laws, or approval.
- 6.4. No permit, with respect to a property in a subdivision not yet assumed by the City, shall be issued until the owner obtains a clearance letter from the developer of the subdivision stating that the developer agrees with the proposed swimming pool or swimming pool enclosure including any alteration of the grade.
- 6.5. If the proposed Pool is within an unassumed plan of subdivision, the developer or owner of the subdivision shall be notified by electronic mail or by regular mail. All third-party agreements shall be the responsibility of the prospective owners.
- 6.6. The Chief Building Official may revoke a permit where it was issued on a mistaken or false information and shall provide written notice to the permit holder of the revocation.
- 6.7. A permit issued under this By-law shall be valid for a period of six(6) months from the date of issue and shall remain valid so long as the work covered by the permit is substantially completed before the expiry of the six(6) month period. Notwithstanding the expiry date of the permit, a permit may be renewed once for further six (6) month period upon a written request for renewal to the Chief Building Official before the expiry date. The swimming pool enclosure which is the subject of the permit shall be substantially completed within the six(6) month renewal period or the permit shall thereafter lapse, and no further renewal shall be permitted. If a permit lapses, and the owner wishes to proceed with the construction or use the swimming pool, the owner or their agent shall make a new application for a permit under this By-law.

SECTION 7 STANDARDS

7.1. TEMPORARY POOL ENCLOSURES

- 7.1.1. The Owner of a property where a Pool is being installed shall ensure that during Pool installation a temporary Pool Enclosure encircles the Pool once water is placed and is always maintained to prevent access to the Pool. The temporary Pool Enclosure shall remain in place until the Inspector has inspected and approved a permanent Pool Enclosure. The maximum length of time a temporary

Pool Enclosure may be used and maintained is seven (7) days.

7.1.2. A temporary Pool Enclosure shall consist of a 1.5m (5 ft.) high plastic or chain link fence with mesh openings no larger than 38mm (1.5 in.), containing steel embedded T-bar posts a maximum of every 3.0m (10 ft.) apart and utilizing a 9 gauge galvanized steel wire located at the top and bottom of the temporary Pool Enclosure.

7.1.3. Notwithstanding the requirements of 7.1.2, an Inspector may permit alternative temporary fencing which provides equivalent standards or exceeds the Standards required.

7.1.4. Notwithstanding Section 5.4 (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 the permission in writing of the Inspector pending the replacement or repair of the Pool Enclosure, subject to any time limits which may be imposed by the Inspector.

7.2. **PERMANENT POOL ENCLOSURES**

7.2.1. Pool Enclosures on any property shall extend from the ground to a height, measured from grade on the outside of the Pool Enclosure, of not less than 1.5 metres (5 feet).

7.2.2. The Owner shall ensure that any access points forming part of a Pool Enclosure shall be kept always latched unless a responsible person is present and supervising the enclosed area.

7.2.3. Doors providing access from a building directly to an enclosed swimming Pool area including doors leading from an attached or detached garage but excluding doors located in a dwelling unit, shall have a self-closing device as well as a self-latching device located not less than 1.5 m (5 ft.) above the bottom of the door.

7.2.4. No part of a Pool Enclosure shall consist of barbed wire or similar dangerous devices, including but not limited to, the transmission of an electrical current through the Pool Enclosure.

7.3. **CONSTRUCTION OF FENCING**

7.3.1. All Pool Enclosures shall be constructed of wood, metal or chain link fencing.

7.3.2. All Pool Enclosures, or such portions thereof, constructed of wood shall comply with Tables 7.4.0.A and 7.4.1.A.

7.3.3. All Pool Enclosures, or such portions thereof, constructed of metal shall comply with Tables 7.4.0.A and 7.4.2.A.

7.3.4. All Pool Enclosures, or such portions thereof, constructed of chain link shall comply with Tables 7.4.0.A and 7.4.3.A.

7.3.5. Notwithstanding the provisions of Section 7, a Pool Enclosure may be built other than as provided in this By-law to standards which are equivalent or exceed the standards and which are acceptable to an Inspector in writing

7.4. CONSTRUCTION OF GATES

7.4.1. Every gate in a Pool Enclosure shall be supported on hinges substantial enough to hold the weight of the gate and constructed in accordance with the requirements of subsections 7.3.2, 7.3.3; 7.3.4 or 7.3.5 and have a self-closing device and be equipped with a lockable self-latching device located on the interior face near the top of the gate.

7.4.2. Metal gates used in a Pool Enclosure shall be equipped with a covering plate device, a minimum of 0.3 m (12 in.) x 0.3 m (12 in.) size, covering the self-latching device from the outside of the gate. The covering plate device shall be a minimum thickness of 6.3 mm (1/4 in.)

7.4.3. Double gates used in a Pool Enclosure shall have one of the two gates equipped with a self-closing device and self-latching device to provide access. The other gate shall have a securing device permanently affixed to the ground or other non-moveable object, which prevents access through this gate without lifting or removing this device and then releasing the latch. This gate must be securely closed unless open for access and supervised to prevent unauthorized access to the Pool area.

TABLE 7.4.0.A

GENERAL PROVISIONS FOR POOL ENCLOSURES

PROVISIONS	ALL PROPERTIES
i. <u>Minimum</u> Height of Fences and Gates	1.5 m (5 ft.) or 1.8 m (6 ft.)
ii. <u>Maximum</u> Clearance Between Bottom of Fence and Grade	100 mm (4 in.)

TABLE 7.4.1.A

WOOD FENCE CONSTRUCTION FOR POOL ENCLOSURES

PROVISIONS	ALL PROPERTIES
i. Horizontal Rail <u>Minimum</u> Size	38 mm (1-1/2 in.) x 89 mm (3-1/2 in.)
ii. If <u>Minimum</u> Vertical Spacing Between Horizontal Railings	0.75 m (29.5 in.)
iii. Then <u>Maximum</u> Spacing Between Vertical Boards	100 mm (4 in.)
iv. If <u>Minimum</u> Vertical Spacing Between Horizontal Railings	Less than 0.75 m (29.5 in.)
v. Then <u>Maximum</u> Spacing Between Vertical Boards	38 mm (1-1/2 in.)
vi. Vertical Board <u>Minimum</u> Size	19 mm (3/4 in.) x 89 mm (3-1/2 in.)
vii. Fence Post <u>Maximum</u> Spacing	2.4 m (8 ft.)
viii. <u>Minimum</u> Size of Fence Posts	89 mm (3-1/2 in.) x 89 mm (3-1/2 in.)
ix. <u>Minimum</u> Depth Below Grade Of Imbedded Fence Posts	1.2 m (4 ft.)

TABLE 7.4.2.A

METAL AND WROUGHT IRON FENCE CONSTRUCTION FOR POOL ENCLOSURES

PROVISIONS	ALL PROPERTIES
i. <u>Minimum</u> Vertical Spacing Between Horizontal Railing	0.9 m (35.4 in.)
ii. Vertical Railing Maximum Spacing	100 mm (4 in.)
iii. <u>Minimum</u> Depth Below Grade Of Imbedded Fence Posts	1.2 m (4 ft.)

**TABLE 7.4.3.A
CHAIN LINK FENCE CONSTRUCTION FOR POOL ENCLOSURES**

PROVISIONS	ALL PROPERTIES FOR POSTS SPACED MAXIMUM 2.4 M (8 FT.)	ALL PROPERTIES FOR POSTS SPACES MAXIMUM 3 M (10 FT.)
<u>Minimum</u> Vertical Spacing Between Horizontal Railings	0.9 m (35.4 in.)	0.9 m (35.4 in.)
<u>Maximum</u> Chain Link Mesh Size For 1.5 m (5 ft.) Fencing	38 mm (1-1/2 in.)	38 mm (1-1/2 in.)
<u>Maximum</u> Chain Link Mesh Size For 1.8 m (6 ft.) Fencing	38 mm (1-1/2 in.) or 50 mm (2 in.)	38 mm (1-1/2 in.) or 50 mm (2 in.)
<u>Minimum</u> Diameter/Gauge Of Mesh Including Vinyl Covering	2.6 mm diameter (No. 11 gauge) or 2 mm diameter (No. 14 gauge) with vinyl covering forming a total combined thickness of 2.6 mm (No. 11 gauge)	2.6 mm diameter (No. 11 gauge) or 2 mm diameter (No. 14 gauge) with vinyl covering forming a total combined thickness of 2.6 mm (No. 11 gauge)
<u>Minimum</u> Diameter Gate And Terminal Posts	47.5 mm (1-2/7 in.)	47.5 mm (1-7/8 in.)
<u>Minimum</u> Depth Below Grade Of Imbedded Fence Posts	The steel fence post will be a minimum of 0.76 cm (2 ft. 6 in.) imbedded in a concrete footing which has a diameter of 20.32 cm (8 in.) and a depth of 1.2 m (4 ft.). NOTE: The top of concrete footing may be below grade level 10.175 cm to 20.35 cm (4 in. to 8 in.)	The steel fence post will be a minimum of 0.76 cm (2 ft. 6 in.) imbedded in a concrete footing which has a diameter of 20.32 cm (8 in.) and a depth of 1.2 m (4 ft.). NOTE: The top of concrete footing may be below grade level 10.175 cm to 20.35 cm (4 in. to 8 in.)
<u>Minimum</u> Diameter For Intermediate Posts	38 mm (1-1/2 in.)	47.5 mm (1-7/8 in.)
<u>Minimum</u> Diameter Top Rail	32 mm (1-1/4 in.)	41.275 mm (1-5/8 in.)
<u>Minimum</u> Diameter Bottom Wire	3.7 mm (No. 9 gauge)	3.7 mm (No. 9 gauge)
<u>Minimum</u> Diameter Gate Frame - Pipe	32 mm (1-1/4 in.)	32 mm (1-1/4 in.)

7.5 SPECIAL PROVISIONS AND PARTIAL EXEMPTIONS

7.5.1 Temporary Pools

7.5.2 Notwithstanding Section 5 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 inspections provided there have been no alterations to the Pool Enclosure.

7.5.3 HOT TUBS

7.5.4 Notwithstanding Section 5 of this By-law, no permit or Pool Enclosure is required for a hot tub which is:

- (a) above grade and;
- (b) equipped with a substantial cover, capable of holding 90.72 kg (200 lbs) which is permanently fixed to the structure and which is locked to prevent access when the structure is not in use; or

- (c) equipped with a guard meeting the requirements of Section 7.5.6(d) of this By-law.

7.5.5 ABOVE GROUND POOLS AND HOT TUBS WITH GUARDS


7.5.6 The Pool Enclosure for an above ground Pool or hot tub need not comply with Section 7 of this By-law provided that:

- (a) the combined height of the exterior sides of the Pool structure and any guard attached thereto is a minimum of 1.82 m (6.0 feet) and a maximum of 2.47 m (8.1 feet) in height above the grade;
- (b) the exterior sides of the Pool structure and any outside face of any guard are constructed in a manner that will not facilitate climbing;
- (c) the outside face of the Pool structure, including any attached deck or platform is at least 1.22 m (4.0 feet) from any lot line, or such larger distance as may be required by the City's zoning by-law;
- (d) if the Pool is surrounded by a platform or deck , the platform or deck must be at least 0.61 m (2 feet) in width, a guard of not less than 1 m (3 feet) in height, measured from the surface of the platform or deck must be provided around the platform or deck and access to the platform or deck must be restricted by shall mean of an entrance or gate constructed in accordance with Section 7 of this By-law.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS 5TH DAY OF APRIL, 2022.



 Mayor



 DEPUTY Clerk

SCHEDULE "A" PERMIT FEES AND DEPOSITS

Every person who erects or constructs a privately-owned outdoor swimming pool or fence around said swimming pool shall pay the following permit application fee:

Swimming Pool Type	Permit Fee	Security Deposit
Above Ground	\$124.00	\$250.00*
Inground	\$124.00	\$500.00*

*Security Deposits released upon completion of pool final

SCHEDULE "B" Undertaking Damage to City Property

To: The Corporation of the City of Welland

Re: _____

Municipal Address

Permit Application Number

In consideration of the issuance of a Permit to _____
(proposed work)

For the above noted property, _____
hereby

(Please print clearly)

Undertakes to repair and replace, to the satisfaction of the City Engineer, all damage to City property, including without limitation to curbs, sidewalks, and boulevards sustained directly or indirectly because of works undertaken by the Owner under the Permit. The Owner agrees that the security deposit of \$_____ will be held and may be used by the City, if the Owner fails to do such work as required by the Undertaking, to recover the cost to complete such work plus administrative fee as permitted by Article 1.5.6. of the Bylaw.

SCHEDULE "C" FORMS

Application for Swimming Pool Enclosure

Order to Comply Pursuant to Subsection 1.5 of the Pool Enclosure By-law 2022-70



Application for a Swimming Pool Enclosure

For use by Principal Authority			
Application Number:		Permit Number (if different):	
Date Received:		Roll Number:	
Application submitted to: _____ (Name of municipality, upper-tier municipality, board of health or conservation authority)			
A. Project Information			
Building Number, Street Name		Unit Number	Lot/Con.
Municipality	Postal Code	Plan Number/Other Description	
Project Value Est. \$		Area of Work (m ²)	
B. Purpose of application			
Proposed Use of Building/Tenant		Current Use of Building/Tenant	
C. Applicant			
Applicant is:		<input type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent of Owner	
Last Name	First Name	Corporation or Partnership	
Street Address		Unit Number	Lot/Con.
Municipality	Postal Code	Province	E-mail
Telephone Number ()	Fax Number ()	Cell Number ()	
D. Owner (if different from applicant)			
Last Name	First Name	Corporation or Partnership	
Street Address		Unit Number	Lot/Con.
Municipality	Postal Code	Province	E-mail
Telephone Number ()	Fax Number ()	Cell Number ()	

E. Pool Type		
<input type="checkbox"/> Inground	<input type="checkbox"/> Above ground	<input type="checkbox"/> Temporary
<input type="checkbox"/> Hot Tub/Spa	<input type="checkbox"/> Landscape pond	<input type="checkbox"/> Other
F. Type of Enclosure		
<input type="checkbox"/> Fenced in yard	<input type="checkbox"/> Above ground pool with guard and foldable, lockable ladder	
<input type="checkbox"/> Other	<input type="checkbox"/> Restricted deck access	
<input type="checkbox"/> Replace or repair of existing pool enclosure		
G. Fencing Construction		
<input type="checkbox"/> Vertical wood board	<input type="checkbox"/> Wrought iron	<input type="checkbox"/> Chain link
		Mesh size <input type="checkbox"/> 38mm (1.5") <input type="checkbox"/> 50mm (2")
<input type="checkbox"/> Height 1.5m (5 ft)	<input type="checkbox"/> 1.8m (6 ft)	
H. Declaration of Applicant		
I _____ declare that:		
(print name)		
<ol style="list-style-type: none"> 1. The information contained in this application, attached schedules, attached plans and specifications, and other attached documentation is true to the best of my knowledge. 2. If the owner is a corporation or partnership, I have authority to bind the corporation or partnership. 		
_____	_____	
Date	Signature of Applicant	



City of Welland
Planning and Development Services
 Planning and Building Division
 60 East Main Street, Welland, ON L3B 3X4
 Phone: 905-735-1700 Ext. 2251 | Fax: 905-735-8772
 Email: devserv@welland.ca | www.welland.ca

ORDER TO COMPLY

Pursuant to Subsection 1.5 of the Pool Enclosure By-law 2022-70

ISSUED TO:	ORDER NO.:
PROJECT:	PERMIT NO.:
LOCATION:	
OWNER:	
DATE OF INSPECTION:	TIME:

TAKE NOTICE THAT THIS PROPERTY IS IN CONTRAVENTION OF THE POOL ENCLOSURE BY-LAW, 2022-70 IN PARTICULAR THE FOLLOWING PROVISIONS THEREOF:

ITEM	DESCRIPTION		REFERENCE BY-LAW SECTION
	CONTRAVENTION	REMEDIAL ACTION REQUIRED	
1.			
2.			

YOU ARE HEREBY ORDERED TO COMPLY WITH THE POOL ENCLOSURE BY-LAW 2022-70 THEREUNDER BY CORRECTING THE ABOVE NOTED CONTRAVENTION(S), NOTIFYING THE INSPECTOR AND PROVIDING ACCESS TO THE PREMISES FOR RE-INSPECTION, ALL BY

Failure to comply with this Order may result in the City, through its employees and agents or persons acting on its behalf, enter upon the land to carry out the necessary measures to comply with the Order to drain, fill in or fence the Pool at the expense of the person and any and all expenses incurred may be added to the tax roll of the subject property and collected from the owner of the subject property in the same manner as municipal taxes, or in any other manner available to the City, including by action.

ORDER ISSUED BY: Officer: _____

Date: _____

Section 1.5.5 of the Pool Enclosure By-law states that EVERY OWNER SHALL COMPLY WITH AN ORDER ISSUED PURSUANT TO SECTION 1.5 OF THIS BY-LAW AND WITHIN THE TIMEFRAME SPECIFIED FOR COMPLIANCE.

Copy: Order File Tenant
 Owner Permit File
 Officer Street File

SCHEDULE "D"

THE CORPORATION OF THE CITY OF WELLAND

SET FINE SCHEDULE

**BY-LAW 2022-70, BEING A BY-LAW TO REGULATE POOL ENCLOSURES
WITHIN THE CITY OF WELLAND**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Penalty
1	Construct or install a Pool without a permit	5.1	\$400.00
2	Cause a Pool to be constructed or installed without a permit	5.1	\$400.00
3	Substantial repair to an existing Pool Enclosure without a permit	5.2	\$400.00
4	Filling the Pool with Water without Enclosure or Notification	5.5	\$400.00
5	Maintain Swimming Pool Enclosure	5.8	\$400.00
6	Fail to Comply with an Order		
7			