

CITY OF NIAGARA FALLS

A CONSOLIDATED BY-LAW

Being **By-law No. 73-159** as amended by:

By-law 73-186, By-law 79-115, By-law 80-131, By-law 81-65, By-law 92-254, By-law 95-276 and
By-law 96-238.

A by-law for requiring the fencing of privately owned swimming pools.

WHEREAS paragraph 24 of subsection 1 of section 354 of The Municipal Act provides that by-laws may be passed by the councils of local municipalities for requiring owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. For the purposes of this by-law,
 - (a) “owner” includes a firm, corporation, club or unincorporated society;
 - (b) “swimming pool” means any structure, basin, chamber or tank containing an artificial body of water for swimming, diving, wading or recreational bathing and having a water depth of 12 inches or more at any point but does not include:
 - (i) any such structure, basin, chamber or tank that is completely above ground and which has a side height of not more than 25 inches measured from ground level at all points on its perimeter, or
 - (ii) a swimming pool which is subject to the regulations made under The Public Health Act.
 - (c) “ground level” means the highest level of the ground at any point around the exterior of the swimming pool within 42 inches measured horizontally from the outside wall of the swimming pool.
2. Subject to section 4, every owner of a privately owned outdoor swimming pool shall erect and maintain on the land or a part of the land on which such swimming pool shall erect and maintain on the land or a part of the land on which such swimming pool is located a fence that,
 - (a) by itself or in conjunction with any building or with any boundary fence which complies with the requirements of clauses b, c and d of this section, shall completely enclose the swimming pool,
 - (b) shall be not less than 42 inches in height measured from ground level at all points on its perimeter,

- (c) shall be either;
 - (i) of metal wire (chain link) or not less than 12 gauge with openings not greater than 1.5 inches by 1.5 inches and supported by iron posts spaced not more than 10 feet apart and set securely in concrete and having a top rail to which the fence fabric is securely attached, provided that the erection of a metal wire (chain link) fence prior to July 7th, 1980 and the maintenance thereof with openings not greater than 2 inches by 2 inches shall not be deemed to be a breach of this by-law, or
 - (ii) of wood, masonry or other material of equivalent strength and providing an equivalent degree of safety and supported by posts of wood, masonry, iron or pipe spaced not more than 10 feet apart and set securely and if such fence has openings at least one dimension of any such opening shall not exceed 3 inches,
- (d) shall not consist of any barbed wire and shall not have any devices for projecting an electric current through the fence, and
- (e) shall be so located and constructed that access to the swimming pool area from outdoors shall be only by means of one or more gates in the fence which comply with the requirements of section 3.
- (f) any opening between the bottom of the fence and the ground beneath it shall be not greater than 3 inches.
- (g) shall be so designed and constructed to deter persons from climbing it,
- (h) shall be so designed and constructed that all horizontal or diagonal structure members shall be located on the inside or pool side of the fence.

3. The owner of a privately owned outdoor swimming pool shall erect and maintain each gate in the fence enclosing the swimming pool in accordance with the following requirements:

- (a) each gate shall be constructed of metal wire (chain link) of not less than 12 gauge with openings not greater than 1.5 inches by 1.5 inches or of wood or other material of equivalent strength which provides an equivalent degree of safety and with openings no greater than provided in subclause (ii) of clause (c) of section 2, provided that the erection of a metal wire (chain link) gate prior to July 7th, 1980 and the maintenance thereof with openings not greater than 2 inches by 2 inches shall not be deemed to be a breach of this by-law.
- (b) each gate shall be not less than 42 inches in height.
- (c) each gate shall be supported by substantial hinges and
- (d) each gate shall be equipped with self-closing, self-latching devices placed at the top and on the inside of the gate.

- (e) any opening between the bottom of the gate and the ground beneath it shall be not greater than 3 inches.
- 4. The provisions of this by-law requiring the erection and maintenance of a fence that shall completely enclose the swimming pool shall not apply if the outside wall of the swimming pool has a height of not less than 42 inches measured from ground level at all points on the perimeter of such wall provided that any steps, ladder or other means of entry to the swimming pool are protected by a fence and gate which comply with all other requirements contained in sections 2 and 3.
- 5. Every owner of a privately owned outdoor swimming pool shall maintain the said fence and gates in such a manner and to such an extent as to ensure at all times maximum security and protection against entry to the swimming pool by unauthorized persons.
- 6. This by-law shall be administered by the Building Inspector.
- 7. (a) Except as provided in subsection 2, this by-law shall come into force and take effect on the date of the passing thereof.
(b) Where a swimming pool has been constructed, installed or erected prior to the date of the passing of this by-law, the provisions of By-law No. 6372, 1963 shall apply to such swimming pool until the 31st day of May, 1974 and thereafter the provisions of this by-law shall apply to such swimming pool.
(c) Subject to subsection 2, By-law No. 6372, 1963 is hereby repealed.
- 8. Every person who contravenes this by-law is guilty of an offence.

(Original By-law 73-159 was) passed this 23rd day of July, 1973.

J. L. COLLINSON / CITY CLERK

R. KEAGHAN / ACTING MAYOR

First Reading: July 23rd, 1973
Second Reading: July 23rd, 1973
Third Reading: July 23rd, 1973

SCHEDULE "A"

1. The permit fee for a swimming pool and fence installation shall be \$70.00 for the initial \$5000.00 of valuated cost of the pool plus \$9.36 for each addition \$1000.00, or part thereof, of valuated cost with a minimum fee of \$70.00.
2. No person shall install a swimming pool until a permit has been issued.
3. For the purpose of this by-law "valuated cost" shall mean the cost of all materials, labour and services involved in the installation of a pool.
4. Refund of fees, where applicable, shall be in accordance with the provisions of Schedule 'C' of By-law No. 94-42, as amended.
5. A swimming pool shall be installed in accordance with the Lot Grading Policy for Subdivisions, where applicable, and shall be installed so that surface drainage does not adversely effect any adjacent property.