

THE CORPORATION OF THE CITY OF THOROLD

BY-LAW NO. 27- 2008

BEING A BY-LAW REGULATING OUTDOOR SWIMMING POOLS IN THE CITY OF THOROLD.

WHEREAS Section 11(2) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that the municipality may pass by-laws related to the health, safety, and well being of the inhabitants of the municipality;

AND WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws that provide for a system of permits in the regulation of a matter;

AND WHEREAS Subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS Subsection 391(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws imposing fees or charges for services provided or done by or on behalf of it;

AND WHEREAS the Council of the Corporation of the City of Thorold deems it desirable for the protection of the public to enact an outdoor swimming pool by-law;

AND WHEREAS the Council of the Corporation of the City of Thorold approved the recommendations of Report PBS2008-32 at a Special Council meeting held April 15, 2008.

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

**SECTION 1    GENERAL PROVISIONS**

**1.1 SHORT TITLE**

1.1.1 This by-law shall be known as the "Pool By-law".

**1.2 DEFINITIONS**

1.2.1 In this by-law:

- (1) "*building code act*" means the Building Code Act, 1992, S.O. 1992, c. 23, as amended;
- (2) "*chief building official*" means the Chief Building Official appointed by Council under the *Building Code Act*, 1992, S.O. 1992, c.23 as amended, or the *person* who is appointed to act in that capacity during his or her absence;
- (3) "*city*" means the Corporation of the City of Thorold or the geographical area of the municipality, as the context requires;
- (4) "*erect*" means to conduct any actions involved in the erection, installation, construction, extension or material alteration of a *swimming pool enclosure* or an *outdoor swimming pool*;

- (5) “*exterior face*” means when used in conjunction with a *swimming pool enclosure*, the side of the enclosure from which access to the pool is to be prevented;
- (6) “*ground level*” means the natural level of the grade immediately adjacent to the *swimming pool enclosure* or side wall of the *outdoor swimming pool*. Where the ground level is higher on one side of the *swimming pool enclosure*, the height of the *swimming pool enclosure* shall be measured from the side where the ground level has the greater height;
- (7) “*highway*” means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- (8) “*lot*” means any parcel of land which can be alienated or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of survey or subdivision;
- (9) “*lot line*” means any boundary of a *lot*, which may consist of one or more lines, straight, curved or both;
- (10) “*lot line, exterior side*” means the *lot line*, on a corner lot, which is a *street line* and not the *front lot line*;
- (11) “*lot line, front*” means a *street line*, provided that
  - (a) where the *lot* abuts *street lines* of different lengths, the shorter *street line* shall be the *front lot line*;
  - (b) where the *lot* abuts *street lines* of equal length, the *street line* facing the principal entrance to the main building shall be the *front lot line*;
  - (c) where the *lot* abuts two streets which do not intersect, the *street line* facing the principal entrance to the main building shall be the *front lot line* and the *street line* opposite shall be the *rear lot line*.
- (12) “*lot line, interior side*” means a *lot line* which intersects a *front lot line* and abuts another *lot*;
- (13) “*lot line, rear*” means a *lot line* joining two side *lot lines*, other than a *front lot line*;
- (14) “*officer*” means a Municipal Law Enforcement Officer, a Building Inspector, a *Chief Building Official*, or other *person* appointed or employed by the *City* for enforcement of by-laws;
- (15) “*ontario building code*” means the regulations established through the *Building Code Act* and any amendments and/or alterations made under that Act;
- (16) “*outdoor swimming pool*” means any artificial body of water located out of doors, and is capable of holding a depth of 0.45m [18 in.] of water at any given section, but does not include:
  - (a) a pond which is maintained for ornamental purposes only;

- (b) a pond which is used only for agricultural or horticultural purposes, or as a reservoir for fire fighting, or is located in an agricultural zone;
  - (c) naturally occurring streams, lakes, swamps or other natural bodies of water.
- (17) “*outdoor swimming pool, above ground*” means any *outdoor swimming pool*, other than a *seasonal outdoor swimming pool*, that has a portion of the pool wall above *ground level*;
  - (18) “*outdoor swimming pool, in ground*” means any *outdoor swimming pool* that is constructed with its pool walls below *ground level*;
  - (19) “*outdoor swimming pool, seasonal*” means any *outdoor swimming pool* which is intended to be removed and stored during the winter months and/or when not in use.
  - (20) “*owner*” means a person or corporation who legally owns or controls the property under consideration;
  - (21) “*permit*” means a permit issued by the *Chief Building Official* certifying approval of plans for the *erection* of an *outdoor swimming pool* and/or a *swimming pool enclosure* required by this by-law;
  - (22) “*person*” means and includes an individual, firm, corporation, association or partnership and includes an occupant or an *owner* of a *property*;
  - (23) “*private spa*” means a hydro-massage pool containing an artificial body of water that is intended primarily for therapeutic or recreational use of a single dwelling unit that is not drained, cleaned or refilled before use by each individual and that utilizes hydro-jet circulation, air induction bubbles, current flow or a combination of them over the majority of the pool area, but does not include an *outdoor swimming pool*;
  - (24) “*property*” means any grounds, *yard* or vacant lands;
  - (25) “*street line*” means the dividing line between a *lot* and a *highway*;
  - (26) “*swimming pool area*” means an *outdoor swimming pool* and includes any surrounding platforms, walkways, play areas and landscaped areas within the *swimming pool enclosure*.
  - (27) “*swimming pool enclosure*” means a permanent fence, wall or structure or a combination thereof, together with any gates or entrances, which completely surround an *outdoor swimming pool*;
  - (28) “*temporary enclosure*” means an enclosure used temporarily for the purpose of enclosing an *outdoor swimming pool* in the course of construction in order to effectively prevent or restrict access thereto by unauthorized *persons*, and to prevent any accident or injury to any *person* in or on a *property*;
  - (29) “*yard*” means land, other than publicly owned land, around and appurtenant to the whole or part of a building and used, or capable of being used in connection with the building.
  - (30) “*yard, exterior side*” means that area of a *lot* lying between a building and an *exterior side lot line*, and bounded by a *front yard* and a *rear yard*;

- (31) “*yard, front*” means that area of a *lot* bounded by:
- (a) the *front lot line*;
  - (b) the *side lot lines*; and
  - (c) a horizontal line coinciding with the exterior wall of a building facing the *front lot line*, produced to intersect the *side lot lines*.
- (32) “*yard, interior side*” means that area of a *lot* lying between a building and an *interior side lot line*, and bounded by a *front yard* and a *rear yard*;
- (33) “*yard, rear*” means that area of a *lot* bounded by:
- (a) the *rear lot line*;
  - (b) the *side lot lines*; and
  - (c) a horizontal line coinciding with the exterior wall of a building facing the *rear lot line*, produced to intersect the *side lot lines*.
- (34) “*zone*” means an area designated by the City of Thorold Comprehensive Zoning By-Law, as amended, and established by that by-law for a specific use;
- (35) “*zone, residential*” means a *zone* in which the use of land, buildings or structures is for the sleeping or habitation of *persons* and without limiting the generality of the foregoing, may include dwellings (detached, semi-detached, multi-unit), apartments and dormitories but shall not include hospitals or care facilities;

### 1.3 INTERPRETATION

- 1.3.1 In this by-law statutory references are to statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.
- 1.3.2 In this by-law the numbering system shall be referenced in accordance with the following:
- |                |            |
|----------------|------------|
| 1              | section    |
| 1.1            | subsection |
| 1.1.1          | article    |
| 1.1.1(1)       | sentence   |
| 1.1.1(1)(a)    | clause     |
| 1.1.1(1)(a)(i) | subclause  |
- 1.3.3 This by-law shall be read with all changes of gender and number required by the context or circumstances.

### 1.4 APPLICATION

- 1.4.1 The provisions of this by-law shall regulate the location and enclosure of privately owned *outdoor swimming pools* and *private spas erected* on any *property* within the boundaries of the City of Thorold.
- 1.4.2 Notwithstanding article 1.4.1, the provisions of this by-law do not apply to *outdoor swimming pools* which are owned by a public or government body.

- 1.4.3 The provisions of this by-law shall apply equally to all types of *outdoor swimming pools*, including *above ground*, *in ground* and *seasonal outdoor swimming pools*, unless otherwise stipulated in this by-law.
- 1.4.3 Save and except section 3 of this by-law, a *private spa* need not comply with the remaining provisions of this by-law, provided that a secure cover of rigid material is placed over the entire opening to the *private spa* and is locked in place, in order to prevent access by unauthorized *persons*, when the *private spa* is not in use or under competent supervision.
- 1.4.4 The provisions of this by-law do not in any way exempt an *outdoor swimming pool* or *private spa* from complying with any and all applicable Federal or Provincial statutes, and regulations thereunder, or any other Municipal or Regional By-law.

## **SECTION 2 PERMITS AND INSPECTIONS**

### **2.1 PERMITS**

- 2.1.1 No *person* shall excavate for or *erect*, or cause or permit excavation for or *erection* of, any *outdoor swimming pool* and/or *swimming pool enclosure* without first obtaining a *permit* from the *Chief Building Official*.
- 2.1.2 An application for *permit* shall be on forms provided by the *City* for such purposes and shall include the following information:
- (1) the location of the *property*;
  - (2) a plot plan or plot plans of the *lot* showing the following information:
    - (a) the location of the *outdoor swimming pool*;
    - (b) the location of the *swimming pool enclosure* including the location of any gates and/or entrances;
    - (c) the location of any associated *outdoor swimming pool* equipment, such as but not limited to, pumps, filters and heating equipment; and
    - (d) dimensions from the *outdoor swimming pool* and any associated equipment to all lot lines and all other buildings or structures on the *lot*.
  - (3) a plan or plans illustrating the complete details of the *swimming pool enclosure* including:
    - (a) type of construction;
    - (b) materials;
    - (c) height.
- 2.1.3 The issuance of a *permit* for any application regarding the *erection* of any *outdoor swimming pool* and/or *swimming pool enclosure* shall be denied if the *erection* of the *outdoor swimming pool* and/or *swimming pool enclosure* would be contrary to the provisions of any By-law of the City of Thorold, or any other applicable law or regulation.
- 2.1.4 Any deck, structure or accessory building such as, but not limited to, an enclosure for pool equipment, change houses and storage buildings are not regulated by this by-law and shall be subject to any and all applicable Municipal or Regional By-laws, or any other applicable law.

- 2.1.5 No *permit* for an *outdoor swimming pool* and/or *swimming pool enclosure* shall be issued unless all applicable fees and applicable deposits, as established by the Council of the Corporation of the City of Thorold, have been paid in full.
- 2.1.6 Once a *permit* has been issued for the *erection* of a *seasonal outdoor swimming pool*, the initial *permit* shall be sufficient to satisfy the requirements of article 2.1.1 for each additional *erection* of the same *seasonal swimming pool* beyond that of the original *erection*. The provisions of article 2.2.2, however, remain in effect and shall be satisfied prior to the placing of water.

## **2.2 INSPECTIONS**

- 2.2.1 No *person* shall place water, or cause water to be placed, in an *outdoor swimming pool*, unless the final inspection has been successfully conducted and the installation of the *swimming pool enclosure* is approved by the *Officer* conducting the inspection.
- 2.2.2 No *person* shall place water, or cause water to be placed, in a *seasonal outdoor swimming pool*, unless the installation inspection has been successfully conducted and the location of the *seasonal outdoor swimming pool* and presence of the required *swimming pool enclosure* is approved by the *Officer* conducting the inspection.
- 2.2.3 The installation inspection required by article 2.2.2 shall be conducted for each *erection* of the *seasonal outdoor swimming pool*. It shall be the responsibility of the *owner* to schedule the required inspection with the *City* for each *erection*.

## **2.3 PERMIT FEES AND DEPOSITS**

- 2.3.1 Any fee or security deposit required by or described in this by-law shall be as set out in Schedule 'A' to this by-law.

## **SECTION 3 SWIMMING POOL CONSTRUCTION**

### **3.1 LOCATION OF SWIMMING POOLS AND PRIVATE SPAS IN RESIDENTIAL ZONES**

- 3.1.1 An *outdoor swimming pool* or *private spa* shall not be located within any *front yard*.
- 3.1.2 An *outdoor swimming pool* shall have no interior wall surface located within 1.2m [3.9 ft.] of:
- (1) any building or structure supported on a foundation that projects below ground level;
  - (2) any *interior side lot line*;
  - (3) any *exterior side lot line*; or
  - (4) any *rear lot line*.
- 3.1.3 A *private spa* shall not be located within 1.2m [3.9 ft.] of:
- (1) any *interior side lot line*;
  - (2) any *exterior side lot line*; or
  - (3) any *rear lot line*.

3.1.4 All associated *outdoor swimming pool* or *private spa* equipment such as, but not limited to, pumps, filters and heating equipment shall be subject to the provisions of articles 3.1.1 and shall not be located within 1.2m [3.9 ft.] of:

- (1) any *interior side lot line*;
- (2) any *exterior side lot line*; or
- (3) any *rear lot line*.

### **3.2 LOCATION OF SWIMMING POOL - NON RESIDENTIAL ZONES**

3.2.1 An *outdoor swimming pool* shall not be located within any required *front yard* or required *exterior side yard* as established by the City of Thorold Comprehensive Zoning By-law, as amended.

3.2.2 An *outdoor swimming pool* shall have no interior wall surface located within 1.5m [5 ft.] of:

- (1) any building or structure supported on a foundation that projects below ground level;
- (2) any *interior side lot line*; or
- (3) any *rear lot line*.

3.2.3 All associated *outdoor swimming pool* equipment such as, but not limited to, pumps, filters and heating equipment shall be subject to the provisions of articles 3.2.1 and shall not be located within 1.5m [5 ft.] of:

- (1) any *interior side lot line*; or
- (2) any *rear lot line*.

### **3.3 PLUMBING**

3.3.1 Any plumbing connections between the *outdoor swimming pool* or *private spa* and any potable water supply shall be equipped with back flow prevention in accordance with the *Ontario Building Code* or any other applicable law.

3.3.2 No overflow or drainage discharge from an *outdoor swimming pool* or *private spa* shall be discharged onto abutting properties, open lands, *City property* or sanitary sewer, however, it shall be discharged to a storm sewer or natural drainage course. Where a storm sewer or natural drainage course is not available, the *outdoor swimming pool* shall be drained by mechanical means and transported to a suitable storm sewer outlet or natural drainage course.

3.3.3 *Outdoor swimming pools* or *private spas* being drained, shall not discharge to any storm sewer or natural drainage course at a rate greater than 300 liters [66 gals] per minute.

3.3.4 Where a *lot* is not serviced by a sanitary sewer an approval, from the authority having jurisdiction for administration and enforcement of section 8 of the *Ontario Building Code*, shall be obtained prior to the issuance of any *permit* under subsection 2.1 of this by-law.

### **3.4 ELECTRICAL**

- 3.4.1 All electrical works conducted in association with the installation of *an outdoor swimming pool* or *private spa* shall be installed in accordance with all applicable electrical codes and standards.
- 3.4.2 Any applicable *permits* and inspections required as a result of the provisions of article 3.4.1 are the responsibility of the *owner*.
- 3.4.3 All lighting fixtures or standards shall be arranged, designed and installed so that light from them is directed downward and deflected away from any adjacent *lots* and abutting *highways*.

## **SECTION 4 ENCLOSURE CONSTRUCTION AND MAINTENANCE**

### **4.1 GENERAL ENCLOSURE REQUIREMENTS**

- 4.1.1 The *owner* of any lands on which an *outdoor swimming pool* is located or erected shall erect a *swimming pool enclosure* around the entire *swimming pool area*, in accordance with the provisions of this by-law.
- 4.1.2 The height of a *swimming pool enclosure* required by this by-law shall be a minimum of 1.5m [5 ft.] in height, as measured from *ground level* at the *exterior face* of the enclosure.
- 4.1.3 The maximum permitted space between the bottom of a *swimming pool enclosure* and the *ground level* is:
  - (1) 50mm [2 in.] where the ground is primarily turf grass or bare earth; and/or
  - (2) 100mm [4 in.] where the ground is primarily concrete or asphalt.
- 4.1.4 Every *swimming pool enclosure* shall be constructed in accordance with Subsections 4.2 and 4.3 of this by-law, except as may otherwise be provided in this by-law.
- 4.1.5 An *above ground outdoor swimming pool* may have an integrally constructed structure as a component of the required *swimming pool enclosure*, provided that the exterior sides of the *above ground outdoor swimming pool* are at least 1.5m [5 ft.] in height, as measured from the *ground level* to the top of the pool wall or the top of the integrally constructed structure.
- 4.1.6 All *swimming pool enclosures* shall be designed so that no member, attachment or opening will facilitate climbing.
- 4.1.7 The wall of a building may be considered to form a part of a *swimming pool enclosure*, provided that:
  - (1) the wall is at least 1.5m [5 ft.] in height, as measured from *ground level* at the *exterior face* of the wall;
  - (2) where any window opening, other than a window located in a dwelling unit, occurs within the area of the wall forming part of the *swimming pool enclosure*, such windows are to be kept securely locked when the pool is not under competent supervision; and
  - (3) where any door providing access directly to a *swimming pool area* occurs within the area of the wall forming part of the *swimming pool enclosure*, such door shall satisfy the provisions of subsection 3.3.

## 4.2 FENCES

4.2.1 A fence which forms a *swimming pool enclosure*, or part thereof, shall be of:

- (1) chain link construction;
- (2) vertical board construction;
- (3) wrought iron construction;
- (4) masonry construction comprised of brick or concrete block with no opening therein, except for a gate; or
- (5) such other materials and construction that will provide an equivalent or greater degree of safety, as determined by the *Chief Building Official*.

4.2.2 A fence of chain link construction shall:

- (1) be constructed of chain link with a wire size of not less than twelve [12] gauge in thickness when of galvanized steel material, or with a wire size of not less than fourteen [14] gauge in thickness when of vinyl or other approved coated steel material which would form an overall thickness equivalent to twelve [12] gauge galvanized steel wire;
- (2) have links of a diameter of not more than 50mm [2 in.];
- (3) be supported by capped minimum 38mm [1.5 in.] diameter galvanized steel posts spaced not more than 2.4m [7.9 ft.] apart, and placed at least 0.9m [3 ft.] below *ground level*;
- (4) have a top rail of a minimum 32mm [1.25 in.] diameter galvanized steel pipe, securely fastened to the upright galvanized steel posts;
- (5) have a bottom support of not less than a nine [9] gauge galvanized steel tension wire securely fastened to the upright galvanized steel posts.

4.2.3 A fence of wood construction shall:

- (1) be constructed of a minimum 16mm [0.625 in.] thick boards, placed vertically;
- (2) have:
  - (a) horizontal members, including top and bottom rails, that are spaced at least 1.2m [3.9 ft.] apart, and vertical boards that are spaced not more than 100mm [4 in.] apart on the *exterior face* of the fence; or
  - (b) horizontal members, including top and bottom rails, that are spaced less than 1.2m [3.9 ft.] apart, and vertical boards that are spaced not more than 50mm [2 in.] apart on the *exterior face* of the fence;
- (2) be supported by solid wood posts of at least 89mm x 89mm [3.5 in. x 3.5 in.], or 89mm [3.5 in.] in diameter, spaced not greater than 2.4m [7.9 ft.] apart, and placed at least 0.9m [3 ft.] below *ground level*;
- (3) have a top and bottom rail of a minimum size of 38mm x 89mm [1.5 in. x 3.5 in.], where the 89mm [3.5 in.] dimension is in a vertical orientation, securely fastened to the solid wood posts;

- (4) have all wood, which is in contact with the ground or to be below *ground level*, of a species resistant to decay by moisture or treated with an approved substance to resist decay.

4.2.4 A fence of wrought iron construction shall:

- (1) be of sufficient strength to provide an effective swimming pool enclosure;
- (2) be supported by posts spaced not greater than 2.4m [7.9 ft.] apart, and placed at least 0.9m [3 ft.] below *ground level*;
- (3) have:
  - (a) horizontal members, including top and bottom rails, that are spaced at least 1.2m [3.9 ft.] apart, and vertical members that are spaced not more than 100mm [4 in.] apart on the *exterior face* of the fence; or
  - (b) horizontal members, including top and bottom rails, that are spaced less than 1.2m [3.9 ft.] apart, and vertical members that are spaced not more than 50mm [2 in.] apart on the *exterior face* of the fence;

4.2.5 Any fence, or portion thereof, constructed using basket weave material, lattice or horizontal boards within the required portion of any *swimming pool enclosure* shall be deemed not in compliance with the requirements of this by-law.

4.2.6 Any fence constructed as a *swimming pool enclosure* must also be constructed in accordance with the City of Thorold Fence By-law, as amended.

4.2.7 Any fence which forms a *swimming pool enclosure*, or part thereof, shall be constructed at a distance of at least 0.6m [2 ft.] from the interior wall surface of the *outdoor swimming pool*.

### 4.3 GATES AND ENTRANCES

4.3.1 Every gate or entrance is to be kept closed and locked at all times when the *outdoor swimming pool* is not under competent supervision.

4.3.2 Every *swimming pool enclosure* shall allow access to the *swimming pool area*, other than through a dwelling unit, by means of one or more gates or entrances.

4.3.3 Gates or entrances which form a part of a *swimming pool enclosure* shall be:

- (1) of construction and height equivalent to or greater than that of the *swimming pool enclosure* which it forms a part of;
- (2) supported on substantial hinges;
- (3) equipped with self-closing hardware capable of placing the gate or entrance in a latched position; and
- (4) equipped with self-latching hardware mounted on the pool side of the gate or entrance.

4.3.4 In addition to the provisions of articles 4.3.1, 4.3.2 and 4.3.3, any door providing access directly to a *swimming pool area*, other than a door located in a dwelling unit, shall be:

- (1) capable of being locked from the pool side of the door; or
- (2) equipped with hardware mounted on either side of the door, at least 1.5m [4.9 ft.] above ground level, which deactivates the use of the door from either the pool side or the *exterior face* of the door.

4.3.5 Where a double gate forms part of the *swimming pool enclosure*, one gate shall be capable of being fixed in a closed and locked position.

#### **4.4 TEMPORARY ENCLOSURES**

4.4.1 An *outdoor swimming pool*, while under construction, shall be completely enclosed by a *temporary enclosure* as defined herein, except where the *swimming pool enclosure* requirements have been satisfied.

4.4.2 A *temporary enclosure* shall:

- (1) consist of a 1.5m [5 ft.] high plastic mesh fence having mesh openings not greater than 50mm [2 in.] and supported by steel T-bar posts located a maximum of 2.4m [7.9 ft.] apart and with a nine [9] gauge galvanized steel wire located at the top and bottom of such fence; or
- (2) be constructed of material that will provide an equivalent or greater degree of safety and which has been approved by the *Chief Building Official*.

#### **4.5 MAINTENANCE**

4.5.1 The *owner* of any lands on which an *outdoor swimming pool* is located or *erected* shall maintain a *swimming pool enclosure* around the entire *swimming pool area*, in accordance with the provisions of this by-law.

4.5.2 No *person* shall place water, or cause water to be placed, in an *outdoor swimming pool*, unless the *swimming pool enclosure* prescribed by this by-law is maintained in accordance with the provisions of this by-law.

4.5.3 Every *swimming pool enclosure*, and *temporary enclosure*, shall be maintained in such a manner and to such an extent as to ensure at all times maximum security and protection against entry to the *outdoor swimming pool* by unauthorized persons.

### **SECTION 5 ADMINISTRATION AND ENFORCEMENT**

#### **5.1 ENFORCEMENT**

5.1.1 The *Chief Building Official* or an *Officer* may inspect the land for the purpose of determining whether there is compliance with any provision of this by-law.

5.1.2 Every *owner* or occupant shall permit the *Chief Building Official* or an *Officer* employed by the *City*, upon production of identification and for the purpose of the inspection by the *City*, to inspect the land for the purpose of article 5.1.1.

- 5.1.3 Where an *owner* fails to *erect* or maintain the *swimming pool enclosure*, including gates and entrances, in accordance with the provisions of this by-law, or causes or permits water to either remain or be placed in an *outdoor swimming pool* which is not enclosed by a *swimming pool enclosure* maintained in accordance with this by-law, the *Chief Building Official* may immediately, at the expense of the *owner*:
- (1) *erect* or repair the *swimming pool enclosure* in accordance with the provisions of this by-law; or
  - (2) remove all water from the *outdoor swimming pool* until such time as the required *swimming pool enclosure* is *erected* or maintained in accordance with the provisions of this by-law.
- 5.1.4 Where an *owner* fails to *erect* or maintain a *temporary enclosure* in accordance with the provisions of this by-law, the *Chief Building Official* may immediately, at the expense of the *owner*, *erect* or repair the *temporary enclosure* in accordance with the provisions of this by-law.
- 5.1.5 The City of Thorold may recover the expenses incurred in undertaking the work described in articles 5.1.3 and 5.1.4 by action or by adding the costs to the tax roll for the *property* and collecting them in the same manner as taxes in accordance with Section 446 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended.

## 5.2 PENALTIES

- 5.2.1 Every *person* who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to fines as provided for in the *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended, and as set out in Schedule 'B' to this by-law.
- 5.2.2 No *person* shall hinder or obstruct an *Officer*, appointed under this by-law or employed to enforce this by-law, from carrying out an inspection of lands.

## 5.3 VALIDITY

- 5.3.1 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under the law so as to protect the public.
- 5.3.2 Where a provision of this by-law conflicts with the provision of another by-law, Act, or Regulation in force within the City of Thorold, the provisions that establish the higher standards to protect the health and safety of *persons* shall prevail.
- 5.3.3 Notwithstanding the provisions of article 5.3.2, where a provision of this by-law conflicts with the provision of any other City of Thorold By-law relating to fencing, the provisions of this by-law will prevail as they relate to enclosing outdoor swimming pools, unless otherwise provided.

## 5.4 TRANSITION RULES

- 5.4.1 After the date of the passing of this by-law, those by-laws identified under subsection 6.1 shall apply only to those properties in which an application for permit has been submitted prior to the date of passing of this by-law, and then only to such properties until such time as the work permitted under any issued permit for those applications has been completed.

**SECTION 6 ENACTMENT AND REPEAL**

**6.1 BY-LAWS TO BE REPEALED**

6.1.1 By-law 62-2005 of the Corporation of the City of Thorold and any amendments made thereto are hereby repealed.

**6.2 DATE OF ENACTMENT**

6.2.1 This by-law shall come into force and effect on the day after it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED BY COUNCIL  
THIS 15TH DAY OF APRIL, 2008.**

---

**Henry D'Angela, Mayor**

---

**John K. Bice, City Clerk**

By-law Reference: Subsection 2.3 - Permit fees and Deposits

**PERMIT FEES**

Every person who erects a privately owned outdoor swimming pool shall pay the following application fees:

- |     |   |          |
|-----|---|----------|
| (a) | each seasonal outdoor swimming pool     | \$50.00  |
| (b) | each above ground outdoor swimming pool | \$75.00  |
| (c) | each in ground outdoor swimming pool    | \$120.00 |

**SECURITY DEPOSIT**

Every person who erects a privately owned in ground outdoor swimming pool shall submit the following deposit with the required application fees:

- |     |                                      |          |
|-----|--------------------------------------|----------|
| (a) | each in ground outdoor swimming pool | \$500.00 |
|-----|--------------------------------------|----------|

The deposit shall be retained by the City for any repairs required to be conducted on municipal properties resulting from construction measures taken in the erection of the in ground outdoor swimming pool. Should any repairs be necessary, the deposit will be drawn upon. Where the value of repairs exceeds the amount of the deposit submitted, any additional expenses will be recovered in a similar manner to that described in article 5.1.5 of this by-law. Upon successful closure of the in ground outdoor swimming pool permit file, the remaining amount of the deposit will be returned to the applicant and if the deposit was not drawn upon, the full amount will be returned.

By-law Reference: Subsection 5.2 - Penalties

**PART 1 PROVINCIAL OFFENCES ACT**

<b>ITEM</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or Defining Offence</b>	<b>Column 3 Set Fine</b>
1	Erect outdoor swimming pool without obtaining a permit	Article 2.1.1	\$150.00
2	Failure to lock cover of private spa	Article 1.4.3	\$150.00
3	Failure to erect temporary enclosure	Article 4.4.1	\$150.00
4	Placement of water without approval	Article 2.2.1	\$150.00
5	Placement of water in seasonal outdoor swimming pool without approval	Article 2.2.2	\$150.00
5	Failure to maintain swimming pool enclosure in safe condition	Article 4.5.1	\$150.00
6	Failure to lock gate or entrance	Article 4.3.1	\$150.00
7	Discharge of outdoor swimming pool onto abutting properties	Article 3.3.2	\$150.00
8	Discharge of outdoor swimming pool or private spa onto City property	Article 3.3.2	\$150.00
9	Discharge of outdoor swimming pool or private spa into sanitary sewer	Article 3.3.2	\$150.00