

# ***THE CITY OF VAUGHAN***

# ***BY-LAW***

## **BY-LAW NUMBER 189-2020**

**A By-law to regulate *Fences* in the City of Vaughan, such as the *Height*, permitted materials and standards for *Fences* and *Swimming Pool Enclosures*, and to repeal the *Fence By-law 80-90*, and its amending by-laws, *240-99*, *162-2004*, *203-2006*, *208-2007* and *29-2014*.**

**WHEREAS** subsection 5(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (“Municipal Act, 2001”), provides that a municipal power shall be exercised by by-law;

**AND WHEREAS** subsection 8 of the Municipal Act, 2001 provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority 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** subsection 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority;

**AND WHEREAS** subsection 11 of the Municipal Act, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

**AND WHEREAS** paragraph 7 of subsection 11(3) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting Structures, including Fences and Signs;

**AND WHEREAS** section 98 of the Municipal Act, 2001 provides that a municipality may provide that the Line Fences Act does not apply to all or any part of the municipality, but despite such by-law being passed, section 20 of the Line Fences Act continues to apply throughout the municipality;

**AND WHEREAS** it is deemed expedient to exclude the City from the provisions of the Line Fences Act, R.S.O. 1990, c.L.17, as amended;

**AND WHEREAS** subsection 391 of the Municipal Act, 2001, without limiting sections 9, 10 and 11, authorizes a municipality to impose fees and charges on persons;

**AND WHEREAS** section 398 of the Municipal Act, 2001 provides for fees and charges

imposed by a municipality on a person to constitute a debt of the person and for the municipality to add such fees and charges to the tax roll and collect them in the same manner as municipal taxes;

**AND WHEREAS** Section 425 of the Municipal Act, 2001, S.O. 2001, c.25 provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence; **AND WHEREAS** subsection 434.1 of the Municipal Act, 2001 provides for a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Act;

**AND WHEREAS** section 435 of the Municipal Act, 2001 provides for conditions governing the powers of entry of a municipality;

**AND WHEREAS** section 436 of the Municipal Act, 2001 provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

**AND WHEREAS** sections 444 and 445 of the Municipal Act, 2001 provide for a municipality to make an order to discontinue a contravening activity or correct a contravention, with either order setting out particulars of the contravention and the date by which compliance must be achieved;

**AND WHEREAS** Section 23.3(4) of the Municipal Act, 2001 it is the opinion of Council that the powers delegated to the Director of By-law and Compliance, Licensing and Permit Services, the Hearings Officer, to hold and make decisions in that hearing, pursuant to this By-law are of a minor nature;

**NOW THEREFORE** the Council of The Corporation of City of Vaughan enacts this By-law to regulate Fences within the boundaries of the City of Vaughan.

## **1.0 Short Title**

(1) This By-law shall be known and may be cited as the “Fence By-law”.

## **2.0 Applicability and Scope**

(1) The provisions of this By-law apply to all *Fences* within the City of Vaughan.

(2) Despite 2.0(1), this By-law does not apply to any noise attenuation fences, walls

- or other barriers authorized by or *Erected* by municipal, provincial or federal government or their agencies, boards, commissions, departments or other bodies.
- (3) Notwithstanding any other provisions in this by-law, in the event of a *Fence* dispute amongst neighbours with respect to shared costs of *Division Fences*, the *Fence Apportionment of Costs By-law 175-93*, as amended, or its successor by-law, shall apply.
- (4) If a *Person* is required to *Erect* a specified *Fence* under a site plan agreement, a subdivision agreement, another City by-law or any applicable law, statute or regulation of any municipal, provincial or federal government or their agencies, boards, commissions, departments or other bodies, the *Fence* is exempt from the provisions of this By-law with which it does not comply.

### **3.0 Definitions and Interpretation**

- (1) In this By-law:
- “*City*” means The Corporation of the City of Vaughan;
- “*City Property*” means all real property, personal Property, chattels or other assets, tangible or intangible, owned and/or controlled by the City;
- “*Depth*” when used in relation to Swimming Pools, means the distance from the bottom of the Swimming Pool at its deepest point to the top edge of the Swimming Pool;
- “*Director of By-law and Compliance, Licensing and Permit Services*” means the Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, their successor or their designate;
- “*Director of Development Engineering*” means the Director of Development Engineering, their successor or their designate;
- “*Division Fence*” means a Fence marking the boundary between abutting parcels of land;
- “*Erect*” or “*Erection*” means the alteration, construction, placement, relocation and any work preparatory to erect any *Fence* or part thereof;
- “*Fence*” means a barrier, including one for noise attenuation, or any structure, except a structural part of a building, that wholly or partially screens from view, encloses or divides a Yard or other land, or marks or substantially marks the

boundary between adjoining land, and includes any hedge or shrub that has the same effect;

*“Grade”* means the ground surface elevation of the lands in the original *City* subdivision lot grading plan approved by *City* staff, or other ground surface elevation approved by *City* staff;

*“Hearings Officer”* means a *Person* appointed by the *Director of By-law and Compliance, Licensing and Permit Services* or their successor or designate, pursuant to Administrative Monetary Penalties By-law 063-2019, as amended, or its successor by-law;

*“Height”* when used in relation to a *Fence*, means the vertical distance measured between the *Grade* to the highest point of the *Fence*, and that in instances where the *Grade* is different on two sides of a *Fence*, the higher *Grade* shall be used to measure the *Height* of the *Fence*;

*“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 Lot* lines thereof;

*“Lot”* means a parcel of land which can be conveyed as a separate parcel pursuant to the provisions of the Planning Act, R.S.O. 1990, c. P.13;

*“Lot Line”* means any boundary of a *lot*;

*“Lot Line, Front”* means the *Street Line*, provided that in the case of a corner lot, the shorter street line is deemed to be the front lot line and provided further that in the case of a corner lot which has an abutting *Sight Triangle* the centre point of the *Lot Line* abutting the *Sight Triangle* shall be deemed to be the point of intersection of the front and *Side Lot Lines*. Where both *Lot Lines* are of equal length or where the Lot abuts more than two (2) *Street Lines*, the front lot line shall be the line facing the main entrance of the building unless the lot is a through lot. A *Reserve* abutting a *Street Line* shall be deemed to be a street for the purpose of this definition;

*“Lot Line, Rear”* means the *Lot Line* most nearly opposite the *Front Lot Line*, but if the *Side Lot Lines* intersect, means the point of intersection;

*“Lot line, Side”* means any *Lot Line* other than the *Front Lot Line* and the *Rear Lot Line*;

*“Multi-Residential Property”* means a *Property* used for or permitted to be used for multiple dwelling units and, includes hotels and motels;

*“Non-Climbable”* refers to a *Swimming Pool Enclosure* or *Fence* which has been constructed to restrict the ability of *Persons* to climb it, in line with the provisions of this By-law;

*“Non-Residential Property”* means a *Property* used for uses other than residential use and includes schools and other institutional uses but does not include *Public Highways* or walkways;

*“Officer”* means a Provincial Offences Officer or Municipal Law Enforcement Officer of the *City*, or any other *Person* appointed by or under the authority of a City by-law to enforce this By-law;

*“Open-Fence Construction”* means *Fence* construction that provides motorists and pedestrians with an unobstructed view of people, vehicles and their movements through the entire length of the *Fence*;

*“Owner”* means a registered *Owner* of a *Property*, and includes but is not limited to any *Owner* in trust, a lessee, tenant, mortgagee in possession or *Person* who is an occupier or has care or control of any *Property*;

*“Parking Lot or Parking Area”* means an area of land comprised of parking spaces and related aisles, maneuvering areas and entrances and exits;

*“Person”* means an individual, association, organization, partnership, limited partnership, corporation, or an individual in their capacity as a trustee, executor, administrator or other legal representative and includes an *Owner*;

*“Property”* means a building or structure or part of a building or structure, and includes the lands appurtenant thereto, including all mobile homes, mobile buildings, mobile structures, outbuildings, *Fences* and *Erections* thereon whether heretofore or hereafter *Erected*, and includes vacant properties;

*“Public Highway”* means any portion of a *Highway* under the jurisdiction of municipal, provincial or federal government or its agencies, boards, commissions, departments or other bodies;

“*Reserve*” means a strip of land abutting a *Public Highway* and owned by the authority having jurisdiction over such *Highway*;

“*Sight Triangle*” means the area of land abutting the corner of a *Lot* enclosed by the projection of each *Street Line*;

“*Sign*” means any advertising device or notice and means any visual medium including its structure and other component parts, which is used or is capable of being used to attract attention to a specific subject matter, other than itself, for identification, information, or advertising purposes;

“*Single Family Residential*” means in reference to a *Property*, any *Property* or portion thereof serving a single dwelling unit;

“*Snow Fence*” means any *Fence* used to force drifting snow to accumulate in a predictable place, and which is usually constructed of plastic mesh, lightweight wood strip or wire;

“*Street Line*” means the dividing line between a *Lot* and a street or the dividing line between a *Lot* and a *Reserve* abutting a street;

“*Swimming Pool*” means any privately-owned outdoor body of water, located on privately owned *Property*, contained in part or in whole by artificial means, and used or intended for Swimming, diving or bathing, but does not include:

- (a) a farm pond; or
- (b) a body of water or *Swimming Pool* that is less than 76.2 centimetres (approximately 30 inches) in *Depth*;

“*Swimming Pool Enclosure*” means a *Fence*, wall or other structure, including any permitted door, gate or other opening, which surrounds and restricts access to an outdoor *Swimming Pool*;

“*Swimming Pool Enclosure Permit*” or “*Permit*” means an official document from the City authorizing the *Permit* holder to construct a *Swimming Pool Enclosure* in compliance with this and other City by-laws;

“*Swimming Pool, In-Ground*” means a *Swimming Pool* that is embedded in the ground or an excavated hole, and is intended to be a year-round structure;

“*Swimming Pool, Permanent Above-Ground*” means a *Swimming Pool* that is above grade and intended to be a year-round structure;

*“Swimming Pool, Seasonal/Temporary”* means an above-ground *Swimming Pool* that may be collapsed, removed or otherwise stored when not in use, such as, but not limited to, an inflatable *Swimming Pool*;

*“Use, Agricultural”* means any general farming or agricultural use which is not obnoxious to the public welfare including animal hospitals, apiaries, aviaries, berry or bush crops, animal husbandry, dog kennels or the breeding, boarding or sale of dogs or cats, field crops, forestry research station, goat or cattle dairies, mushroom farms, orchards, riding stables or academies, the raising of sheep or goats, the raising of swine, tree and shrub farms, and such uses or enterprises as are customarily carried on in the field of general agriculture;

*“Use, Industrial”* means the use of land, building or structures for the warehousing, manufacturing, processing or assembly of materials to finished products or by-products, including the storage of such materials and products;

*“Yard”* means an uncovered space on a *Lot* lying between the *Lot Line* and the nearest part of any building or structure on the *Lot*;

*“Yard, Front”* means a *Yard* extending across the full width of the *Lot* between the *Front Lot Line* of the *Lot* and nearest part of the nearest building or structure on the *Lot*;

*“Zone”* or *“Zoned”* means a designated area of land permitted for uses as shown in Comprehensive Zoning By-law 1-88, as amended, or its successor by-law.

- (2) In this By-law, unless the context otherwise requires, wording imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context so requires.
- (3) Where any expression of time occurs or where any hour or other period of time is stated, the time referred to shall be standard time except in periods when daylight saving time is in effect, in which periods it shall be daylight saving time.
- (4) Where measurements are used in this By-law, the Metric system shall be deemed to be the official and required system of measurement. Measurements in the Imperial system are provided for convenience purposes only.
- (5) Schedule “A” referred to in this By-law shall form part of this By-law.

#### 4.0 General Provisions

- (1) No *Person* shall *Erect*, own or maintain, or cause or allow the *Erection* or maintenance of, any *Fence* on private *Property* in the *City* of Vaughan that does not comply with this By-law and with any other applicable law.
- (2) No *Person* shall *Erect*, own or maintain, or cause or allow the *Erection* or maintenance of any *Fence* that uses materials not allowed for use in permanent fencing unless allowed by this By-law or other *City* by-law.
- (3) Notwithstanding 4.0(2), a *Snow Fence* may be used on private *Property* between November 15 and April 15 and must comply with all corresponding standards in this By-law and other *City* by-law.
- (4) A *Fence* shall be designed and installed in such a manner as to meet its intended function.
- (5) A *Fence* shall be maintained:
  - (a) in a structurally sound condition and in good repair;
  - (b) in good repair, free from cracks, and missing, broken, or warped components;
  - (c) such that all surfaces that have been previously painted, stained, varnished or which have received other similar protective finishes shall be maintained without visible deterioration;
  - (d) free from hazards, including protruding nails, screws and staples;
  - (e) free from posters, *Signs*, notices, advertising materials, words, slogans, pictures, drawings, or other defacements;
  - (f) in a plumb condition, unless specifically designed to be other than vertical;
  - (g) so that it is of uniform appearance; and
  - (h) so that it does not create an unsightly appearance.
- (6) A *Fence* shall not be used as a support for any structure, object or thing that could exert a lateral force against or upon the *Fence*.
- (7) A *Fence* shall be capable of performing safely the function for it was constructed.
- (8) A *Fence* shall be kept free from deterioration by the application of paint or other suitable protective materials or constructed of a material that is resistant to such deterioration.



## 5.0 Restrictions on Fences

- (1) No *Person* shall use any barbed wire or other barbed or sharp materials in the *Erection* of or construction of, or in connection with, any *Fence* in the *City*, except where all of the following conditions are met:
  - (a) the *Fence* is located on land *Zoned* for *Industrial Use*; and
  - (b) any barbed wire or other barbed or sharp materials are used at a *Height* of at least 1.8 metres (approximately 6 feet) above the Grade.
- (2) No *Person* shall permit a *Fence* or any attachment to a *Fence* to be used as a conductor of an electrical current, except where all of the following conditions are met:
  - (a) the *Fence* is located on land *Zoned* for Agricultural Use;
  - (b) the land is in actual use for raising livestock;
  - (c) the *Fence* does not carry an electrical charge of more than 12 volts;
  - (d) the *Fence* is designed and installed only to contain livestock; and
  - (e) the *Fence* has *Signs* installed at not-more-than 12.0-metre (approximately 39 feet) intervals along the *Fence*, warning that the *Fence* carries electricity.
- (3) No *Person* shall *Erect* a *Fence* upon a *Property* boundary at a location where a maintenance easement exists, unless:
  - (a) permitted on the registered title of the *Property*; or
  - (b) the *Fence* contains a gate within the limits of the maintenance easement of at least 0.9 metres (approximately 3 feet) in width which provides access to maintenance easement lands; or
  - (c) authorized by the *City*, municipal, provincial or federal government or their agencies, boards, commissions, departments or other bodies.
- (4) No *Person* shall construct a *Fence* over a Drainage Easement or watercourse without constructing a watergate sufficient to ensure adequate drainage.
- (5) All watergates on Fences shall at all times be kept free from obstructions.
- (6) No *Person* shall *Erect* a *Division Fence* that is greater than 20.0 centimetres (approximately 7.9 inches) wide where such *Fence* straddles a *Property* boundary.
- (7) No *Person* shall *Erect*, own or maintain, or cause or allow the *Erection* or maintenance of any *Fence* that uses sheet metal or corrugated metal panels of

any material, or any materials not usually intended for use in permanent fencing,  
unless specifically permitted by this by-law.

6.0 Fence Height and Construction

(1) Fences may be constructed to the maximum *Heights* listed in the Table below:

Table 1 – Maximum Fence Heights

No	Fence Description	Maximum Fence Height		
		Fence on a Single Family Residential or Multi-Residential Property	Fence on Non-Residential Property	Hedge, shrub or other vegetation that acts as a Fence
1	Fence that is: <ul style="list-style-type: none"><li>• in a <i>Front Yard</i>; and</li><li>• within 2.4 metres (approximately 7 feet 10 inches) of a <i>Lot Line</i> abutting a <i>Public Highway</i></li></ul>	1.2 metres (approximately 4 feet)	1.2 metres (approximately 4 feet)	1.2 metres (approximately 4 feet)
2	Fence that is: <ul style="list-style-type: none"><li>• in a <i>Front Yard</i>; and</li><li>• not within 2.4 metres (approximately 7 feet 10 inches) of a <i>Lot Line</i> abutting a <i>Public Highway</i></li></ul>	2.0 metres (approximately 6 feet 7 inches)	2.0 metres (approximately 6 feet 7 inches)	No maximum
3	Fence that is: <ul style="list-style-type: none"><li>• not in a <i>Front Yard</i>;</li><li>• within 2.4 metres (approximately 7 feet 10 inches) of a <i>Side Lot Line</i> abutting a <i>Public Highway</i>; and</li><li>• not within 2.4 metres of a driveway</li></ul>	2.5 metres (approximately 8 feet 2 inches)	2.5 metres (approximately 8 feet 2 inches)	2.5 metres (approximately 8 feet 2 inches)
4	Fence that is: <ul style="list-style-type: none"><li>• not in a <i>Front Yard</i>;</li><li>• not within 2.4 metres (approximately 7 feet 10 inches) of a <i>Side Lot Line</i> abutting a <i>Public Highway</i>;</li><li>• within 2.4 metres of the nearest wall of the main building extended to the <i>Rear Lot Line</i>; and</li><li>• within 2.4 metres of a driveway</li></ul>	2.0 metres (approximately 6 feet 7 inches)	2.5 metres (approximately 8 feet 2 inches)	No maximum
5	Fence that is: <ul style="list-style-type: none"><li>• on an unroofed deck; not in a <i>Front Yard</i>; and</li><li>• not within 2.4 metres (7 feet 10 in) of a <i>Lot Line</i> abutting a <i>Public Highway</i>*</li></ul>	2.0 metres (approximately 6 feet 7 inches) above surface of deck	2.0 metres (approximately 6 feet 7 inches) above surface of deck	No maximum

No	Fence Description	Maximum Fence Height		
		Fence on a Single Family Residential or Multi-Residential Property	Fence on Non-Residential Property	Hedge, shrub or other vegetation that acts as a Fence
6	Fence that is: <ul style="list-style-type: none"><li>• not in a <i>Front Yard</i>;</li><li>• not a <i>Fence</i> under Items 3, 4 or 5 of this Table; and</li><li>• abutting a <i>Multi-Residential Property</i>, a <i>Non-Residential Property</i>, a <i>Public Highway</i> or a public walkway</li></ul>	2.5 metres (approximately 8 feet 2 inches)	2.5 metres (approximately 8 feet 2 inches)	No maximum
7	Fence that is: <ul style="list-style-type: none"><li>• abutting a rapid transit right of way</li></ul>	2.5 metres (approximately 8 feet 2 inches)	No maximum	No maximum
8	Fence that is: <ul style="list-style-type: none"><li>• abutting a tennis court, baseball diamond or other recreational facility</li></ul>	3.0 metres (approximately 9 feet 10 inches)	No maximum	No maximum
9	Any other <i>Fence</i>	2.0 metres (approximately 6 feet 7 inches)	2.5 metres (approximately 8 feet 2 inches)	No maximum

- (2) Notwithstanding 6.0(1), where more than one description in Table 1 applies to a *Fence*, each portion of the *Fence* that corresponds to a single description shall be deemed to be a separate *Fence* for the purpose of determining the maximum *Height* for that portion.
- (3) Notwithstanding 6.0(1), any *Fence* or portion of the *Fence* which obstructs the sightline of vehicular or pedestrian traffic, must be of *Open-Fence Construction* or *Erected* to create a *Sight Triangle*, to the satisfaction of *City* staff, such that:
- (a) any *Fence* within 2.4 metres (approximately 7 feet 10 inches) of any driveway shall be an open mesh chain-link *Fence* or of an equivalent *Open-Fence Construction* for at least 2.4 metres (approximately 7 feet 10 inches) from the *Lot Line* at which the driveway begins so as not to obstruct the view of the boulevard or *Highway*;
- (b) any *Fence* in a *Parking Lot* or within a *Parking Area* shall be of an *Open-Fence Construction*, such as an open mesh chain-link *Fence*. Any *Fence* in a *Parking Lot* or within a *Parking Area*, including, any vegetation on or about such *Fence*, shall not restrict the sightlines of vehicular or pedestrian traffic;

- (c) vegetation shall not be permitted to obstruct the view through *Open-Fence Construction*; and
  - (d) any other *Fence* or portion of the *Fence* which obstructs the *Sight Lines* of vehicular or pedestrian traffic.
- (4) Where a *Yard* of one *Property* abuts the *Yard* of an adjoining *Property*, and at least one of the abutting *Yards* fronts onto a *Public Highway* and has the governmental approved access onto such *Public Highway*, then either:
- (a) any *Fence Erected* must be of *Open-Fence Construction*; or
  - (b) any *Fence* must be *Erected* to create a *Sight Triangle* to the satisfaction of *City* staff.

## **7.0 Exemptions from the Fence By-law**

- (1) An *Owner* of land in which a *Fence* is located may make an application in writing to the *Director of By-law and Compliance, Licensing and Permit Services* for an exemption to this By-law with respect to *Fence Height*, *Fence* materials, *Fence* location, or other matters. The *Director of By-law and Compliance, Licensing and Permit Services* shall send a notice to the other *Owners* of properties within a 60.0 metre (approximately 197 feet) radius of the applicant *Owner* providing notification of the application and inviting comments;
- (2) For greater certainty, a *Fence* that encroaches onto the boulevard in compliance with the *Encroachment By-law*, as amended, or its successor by-law, is also subject to an exemption request under 7.0(1);
- (3) The power and authority to grant or refuse a *Fence By-law* exemption is hereby delegated to the *Director of By-law and Compliance, Licensing and Permit Services*;
- (4) The *Director of By-law and Compliance, Licensing and Permit Services* shall refuse the *Fence By-law* exemption application where any of the *Property Owners* abutting the applicant *Owner* objects to the *Fence By-law* exemption;
- (5) Notwithstanding any objection of an adjoining *Owner(s)* of properties, the *Director of By-law and Compliance Licensing and Permit Services* may grant a *Fence By-law* exemption application where the *Fence By-law* exemption is deemed necessary for the health and safety of the public.

- (6) Where the adjoining property *Owner(s)* does not object to the Fence By-law exemption, and the Fence By-law exemption is not necessary for the health and safety of the public, the *Director of By-law and Compliance, Licensing and Permit Services* may grant or refuse the Fence By-law exemption, and shall consider the impact on the community in making this decision, including:
- (a) the *Height of Fences* on abutting lands;
  - (b) the length of time the *Fence* has been in place;
  - (c) any input received from *Property Owner(s)* of properties to whom notice has been provided under Section 7.0;
  - (d) any impact that the *Fence* would have on sightlines; and
  - (e) any other potential impacts to community health and safety.
- (7) After a decision is made, the *Director of By-law and Compliance, Licensing and Permit Services*, shall give written notice to the *Owner* of the decision.
- (8) The written notice to be given in 7.0(7) shall:
- (a) set out the grounds for the decision;
  - (b) give reasonable particulars of the decision;
  - (c) be signed by the *Director of By-law and Compliance, Licensing and Permit Services*; and
  - (d) state that the *Owner* is entitled to appeal the decision to the *Hearings Officer* within fourteen (14) days after the notice is served, by providing a notice in writing to the By-law and Compliance, Licensing and Permit Services Department requesting a hearing from the *Hearings Officer* accompanied by the non-refundable appeal fee in The Fees and Charges By-law 171-2013, as amended, or its successor by-law.

## **8.0 Swimming Pool Enclosure Requirements**

- (1) The *Owner* of a *Swimming Pool* shall *Erect* and maintain around the *Swimming Pool* and shall ensure that the *Swimming Pool Enclosure*:
- (a) Shall meet the applicable criteria found in Schedule “A”:
  - (b) Is in compliance with this By-law such that it is structurally sound, stable, safe and capable of performing its intended use.

## 9.0 Swimming Pool Enclosures Permits

- (1) No *Owner* shall excavate for or *Erect*, or cause or allow excavation for or *Erection* of a *Swimming Pool* without first obtaining the appropriate *Swimming Pool Enclosure Permit* certifying approval from the *Director of Development Engineering*, for the construction of a *Swimming Pool Enclosure* for the *Swimming Pool*.
- (2) Notwithstanding 9.0(1), a temporary *Fence* must be *Erected* prior to any excavation or *Erection* related to the *Swimming Pool* or *Swimming Pool Enclosure*, such that the temporary *Fence* shall be *Erected* in a good, workmanlike manner and shall consist of steel "T" posts spaced at not more than 1.2 metres (approximately 4 feet) apart and embedded at least 60.0 centimetres (approximately 2 feet) into the ground with 3.8-centimetre (approximately 1.5-inch) plastic mesh fencing at least 1.2 metres (approximately 4 feet) high that is securely fastened to the posts at 20.0-centimetre (approximately 7.9-inch) centres and horizontally secured at the top and bottom by an eleven-gauge steel lacing cable threaded through the mesh and looped and fastened to each post, or any other *Fence* acceptable to an *Officer*.
- (3) An application made by an *Owner* for a *Swimming Pool Enclosure Permit*, including an *In-Ground*, *Permanent Above-Ground* or *Seasonal/Temporary Swimming Pool Enclosure Permit*, shall be in the form required by the *Director of Development Engineering*, and shall be accompanied by:
  - (a) a description of the pool, including whether it is an *In-Ground*, *Permanent Above-Ground* or *Seasonal/Temporary Swimming Pool*;
  - (b) plans showing the location of the *Swimming Pool* in relation to *Lot Lines* and adjacent buildings;
  - (c) plans providing complete details of the *Swimming Pool Enclosure*; and
  - (d) plans providing any other details and information required by the *Director of Development Engineering*, for determining compliance with this by-law;
  - (e) payment of the non-refundable *Swimming Pool Enclosure Permit* application fee set out in the Fees and Charges By-law 171-2013, as amended, or its successor by-law; and

- (f) payment of a *Swimming Pool Enclosure Permit* deposit for *In-Ground Swimming Pool Enclosure Permits* as set out in the Fees and Charges By-law 171-2013, as amended, or its successor by-law.
- (4) An *In-Ground* or *Permanent Above-Ground Swimming Pool Enclosure Permit* is only required to be obtained once for a given *Swimming Pool* on a given *Lot*.
- (5) Once a *Swimming Pool Enclosure Permit* has been approved for a given *Lot*, the *Permit* Holder may *Erect* the *Seasonal/Temporary Swimming Pool* subsequent times without obtaining an additional *Swimming Pool Enclosure Permit*, provided that the original *Swimming Pool Enclosure Permit* was not revoked; and that the *Seasonal/Temporary Swimming Pool* is *Erected* within the dimensions and same location of the *Swimming Pool* shown on the *Permit* application.
- (6) The *Director of Development Engineering* shall refuse, revoke or apply conditions to a *Swimming Pool Enclosure Permit* if:
  - (a) the proposed *Swimming Pool Enclosure* would contravene this By-law or any other applicable law;
  - (b) the *Swimming Pool Enclosure Permit* was issued in error or on mistaken, false or incorrect information; and/or
  - (c) the required *Swimming Pool Enclosure* Application Fee, set out in Fees and Charges By-law 171-2013, as amended, or its successor by-law, has not been paid.
- (7) No *Person* shall place water in a privately-owned outdoor *Swimming Pool*, or allow water to remain therein, unless the *Swimming Pool Enclosure* prescribed by this By-law has been inspected and approved by the *City* as *Erected*.
- (8) Notwithstanding 9.0(7), if necessary to prevent damage to the *Swimming Pool*, a *Person* may fill a *Swimming Pool* with water when temporary fencing has been *Erected* in compliance with this By-law only to the *Depth* necessary to prevent damage, however the *Swimming Pool* shall not be used until the *Swimming Pool Enclosure* has been *Erected* and inspected by an *Officer* who has confirmed it is in full compliance with this By-law.
- (9) The *Owner* of the *Swimming Pool* shall contact the *City* once the *Swimming Pool Enclosure* is complete and ready for inspection and shall pay any required

Re-inspection fees as set out in Fees and Charges By-law 171-2013, as amended, or its successor by-law.

- (10) If the *Swimming Pool Enclosure* has not passed the final inspection within one year of the date of issuance, the *Swimming Pool Enclosure Permit* will expire unless the *Owner* has applied for and obtained a one-year *Swimming Pool Enclosure Permit* extension in the form required by the *Director of Development Engineering*, and shall be accompanied by payment of the non-refundable fee set out in the Fees and Charges By-law 171-2013, as amended, or its successor by-law.
- (11) If a decision is made by the *Director of Development Engineering* to place conditions on, refuse or revoke the application or *Permit*, the *Director of Development Engineering* shall provide a written notice of that decision to the *Owner* advising of the decision with respect to the Application or *Permit*.
- (12) The written notice given in Section 9.0(11) shall:
  - (a) set out the grounds for the decision;
  - (b) give reasonable particulars of the grounds;
  - (c) be signed by the *Director of Development Engineering*; and
  - (d) state that the *Owner* is entitled to appeal the decision to the *Hearings Officer* within fourteen (14) days after the notice is served, by providing a notice in writing to the *City* requesting a hearing from the *Hearings Officer* accompanied by the non-refundable appeal fee.
- (13) Where no appeal is registered within the required time period the decision of the *Director of Development Engineering* shall be final.
- (14) Where the *Owner* who holds the permit requests a hearing before the *Hearings Officer* within the required time period, the *Director of Development Engineering*, shall notify the *Owner* of the time, place and date of the appeal hearing.

## **10.0 Appeals to the Hearings Officer**

- (1) The powers and authority to hear appeals from decisions made by the *Director of By-law and Compliance, Licensing and Permit Services* or *Director of Development Engineering*, pursuant to 7.0 and 9.0, are hereby delegated to the *Hearings Officer*.
- (2) Where an *Owner* wishes to appeal the decision with respect to a Fence By-law



exemption or *Swimming Pool Enclosure Permit* application, the *Owner* shall deliver a notice in writing to the By-law and Compliance Department within 14 days of being served with the decision.

- (3) The notice in 10.0 (2) shall be accompanied by a non-refundable appeal fee as set out in the *City's Fees and Charges By-law 171-2013*, as amended, or its successor by-law.
- (4) Where the *Owner* requests an appeal within the required time period, and pays the required appeal fee, the By-law and Compliance, Licensing and Permit Services Department shall provide written notice to the *Owner* of the time, place and date of the appeal hearing.
- (5) When an appeal hearing date before the *Hearings Officer* has been set or fixed, and the *Owner* having been provided with written notice referred to in 10.0(4), and the *Owner* fails to attend at the appointed time, place and date, the *Hearings Officer* may proceed in their absence and the *Owner* will not be entitled to any further notice in the proceedings.
- (6) At the appeal hearing, the onus shall be upon the *Owner* to show cause why:
  - (a) the *Permit* or Fence By-law exemption applied for should not be refused;
  - (b) the *Permit* or Fence By-law exemption should not be revoked; or
  - (c) the conditions or special conditions should not be imposed on the *Permit* or Fence By-law exemption.
- (7) The *Hearings Officer* may:
  - (a) uphold or vary the decision of the *Director of By-law & Compliance, Licensing and Permit Services* or *Director of Development Engineering*; or
  - (b) make any decision that the Director of By-law & Compliance, Licensing and Permit Services or *Director of Development Engineering* was entitled to make in the first instance.
- (8) In making the decision as per 10.0(7), the *Hearings Officer*:
  - (a) the *Hearings Officer* shall consider the grounds in 7.0(6) and 9.0(6), as appropriate;
  - (b) the objection of an adjoining *Owner* of a *Property* does not bind the *Hearings Officer* but shall also be considered in rendering the decision.

- (9) All appeal hearings shall be public hearings.
- (10) At the conclusion of the appeal hearing, the *Hearings Officer* may give their decision orally or reserve such decision, but in either case shall provide the decision in writing, with reasons, within fourteen (14) days of the hearing to the *Owner* and the *Director of By-law and Compliance, Licensing and Permit Services*.
- (11) The decision of the *Hearings Officer* is final and binding.

#### **11.0 Liability**

- (1) The provisions of this By-law shall not be construed as relieving or limiting the responsibility or liability of any *Person* who has lawfully or unlawfully *Erected*, placed, and/or *Altered* a *Fence* which has contributed to any Personal injury, including injury resulting in death or *Property* damage, or from acts or omissions of such *Person*, or their agents, employees or contractors, in the *Erection*, placement and/or alteration of a *Fence*.
- (2) Likewise, provisions of this By-law shall not be construed as acceptance by the *City*, its *Officers*, employees, or agents of any responsibility or liability whatsoever by reason of allowing, approving the request for, or activities related to *Erection* of a *Fence*, granting a Fence By-law exemption or *Swimming Pool Enclosure Permit*. The *City* is not responsible for any damages, losses or injuries caused by or to *Erection* of a *Fence* or *Swimming Pool Enclosure*. For further clarity, the *City* is not responsible for any damages caused as a result of the *City's* operations, including, but not limited to, investigation of *Fence*-related complaints or *Fence* inspections.

#### **11.0 Authority of Directors**

- (1) The *Director of By-law and Compliance, Licensing and Permit Services*, or *Director of Development Engineering*, shall have delegated authority to:
  - (a) Revoke a Fence By-law exemption or *Swimming Pool Enclosure Permit* that has been issued as a result of false or misleading statements, or undertakings, in the application, or that has been issued in error;
  - (b) Impose terms and conditions on any application for Fence By-law exemption or *Swimming Pool Enclosure Permit* as deemed appropriate under this By-law;

## **12.0 General Regulatory Requirements**

- (1) Every *Person* who contravenes any provision of this By-law is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act and the Municipal Act, 2001, as each may be amended from time to time

## **13.0 Administration, Notices and Records**

- (1) Any notice or other information required or authorized to be forwarded, given or served under this By-law is sufficiently given if delivered personally or sent by first-class prepaid mail addressed to the *Person* to whom delivery is required to be made at the address shown on the application or at last address shown or appearing on the records of the *City*.
- (2) Where service is effected by mail, it shall be deemed to be made on the fifth day after the date of mailing, unless the *Person* on whom service is being made establishes to the satisfaction of the *Director of By-law and Compliance, Licensing and Permit Services*, that he or she did not, acting in good faith, through absence, accident, illness or other cause beyond their control, receive the notice or Order until a later date.

## **14.0 Enforcement**

- (1) The provisions of this By-law may be enforced by an *Officer*.
- (2) An *Officer*, employee, or agent of the *City* acting under this By-law may enter and inspect all lands, buildings, structures or parts thereof that are subject to this By-law at any reasonable time with or without notice at the discretion of the *City* for the purposes of determining whether there is compliance with this By-law.
- (3) An *Officer* who has reasonable grounds to believe that a *Person* has contravened any provision of this By-law may require that *Person* provide identification to the *Officer*.
- (4) Any information provided to the *Officer* is presumed to be correct and accurate and is admissible in any proceeding.
- (5) All *Persons* who are required by an *Officer* to provide identification under 14.0(3) shall provide such identification to the *Officer*.
- (6) Failure to provide sufficient or correct and accurate identification shall constitute

an offence as set out under section 17.0 of this By-law.

- (7) An *Officer* may issue an Order to any *Person* governed by the provisions of this By-law, directing such *Person* to:
  - (a) discontinue a contravening activity; or
  - (b) do work to correct a contravention.
- (8) Failure to comply with an Order under 14.0(7) is an offence and every *Person* named in such Order may be subject to administrative monetary penalties and any other penalties and remedies prescribed under this By-law under Sections 16.0 and 17.0.
- (9) No *Person* shall hinder or obstruct, or attempt to hinder or obstruct, an *Officer*, employee or agent of the *City* who is exercising a power or performing a duty under this By-law.
- (10) With respect to the Swimming Pool Enclosure deposit in Section 9.0(3)(e):
  - (a) The *Director of By-law and Compliance, Licensing and Permit Services*, or *Director of Development Engineering*, may use any amount from the deposit to cover any remedial action or other costs incurred by the *City* as a result of the *Swimming Pool Enclosure*.
  - (b) Deposits shall be applied to any damages or to any other costs incurred by the *City* to bring the *Public Highway* or other *City Property* back to its condition prior to the event and will not be returned until after the *Swimming Pool Enclosure Permit* holder are in compliance with this and other by-laws, and other pertinent regulation.
  - (c) Where the costs associated with any remedial action taken by the *City* exceed the amount of the deposit, the *City* shall issue a bill for the difference. Where the bill is not paid in a timely manner, the billed amount shall be considered a debt to the *City* and added to the tax roll of the *Swimming Pool Enclosure Permit* holder.

## **15.0 Powers of Entry and Inspection**

- (1) *Officers*, and any *Person* acting under their direction, may, at any reasonable time or at any time when there are reasonable grounds to believe that a contravention of this By-law is occurring or alleged to be occurring and subject to applicable law,

enter onto any *Property* at any reasonable time to determine if the provisions of this Bylaw are being complied with.

- (2) *Officers* are authorized, for the purposes of an inspection to determine and enforce compliance with the By-law, to:
  - (a) enter, at any reasonable time, onto any *Property*, other than a Dwelling Unit unless authorized by the occupier of such Dwelling Unit or under the authority of a warrant issued by a court of competent jurisdiction;
  - (b) require any *Person* to produce for inspection any substance, equipment, documents, or other things relevant to the alleged offence or inspection;
  - (c) alone or in conjunction with *Persons* possessing special or expert knowledge, make examinations, take tests and measurements, obtain samples, and/or make audio, video and/or photographic records relevant to the alleged offence or inspection; and/or
  - (d) require information from any *Person* concerning the alleged offence or inspection.

#### **16.0 Administrative Monetary Penalties**

- (1) Instead of laying a charge under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended, for a breach of any provisions of this By-law, an *Officer* may issue an administrative monetary penalty to the *Person* who has contravened this By-law.
- (2) If an administrative monetary penalty is issued to a *Person* under 16.0(1), no charge shall be laid against that same *Person* for the same breach.
- (3) The amount of the administrative monetary penalty for a breach under this Bylaw is \$250.
- (4) A *Person* who is issued an administrative monetary penalty shall be subject to the procedures provided for in the Administrative Monetary Penalties By-law 063-2019, as amended or its successor by-law.
- (5) An administrative monetary penalty imposed on a *Person* that becomes a debt to the *City* under the Administrative Monetary Penalties By-law 063-2019, as amended or its successor by-law, may be added to the municipal tax roll and collected in the same manner as municipal taxes.

## **17.0 Fines**

- (1) Every *Person* who contravenes a provision of this By-law or direction provided by an *Officer* in order to achieve compliance shall be guilty of an offence and upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, C. P.33, as amended.

## **17.0 Recovery of expenses**

- (1) All expenses incurred by the *City* in connection with the enforcement of this By-law shall be paid by the *Owner* within 30 days of their billing date, and in the event of failure to pay the entire amount due within the said 30 days, at the discretion of the *City*, the outstanding balance of the invoice may thereafter be added to the tax roll.
- (2) Notwithstanding 17.0(1), the *City* may recover all expenses owing under the enforcement of this By-law by a court action as a debt due to the *City*.
- (3) Where a fine is in default, the *City* may proceed with civil enforcement against the *Person* upon whom the fine has been imposed, pursuant to the Provincial Offences Act, R.S.O. 1990, Chapter P.33.
- (4) The *City* may make a request to the treasurer of a local municipality to add any part of a fine that is in default to the tax roll for any *Property* in the local municipality for which all of the *Owners* are responsible for paying the fine, and to collect it in the same manner as municipal taxes.

## **18.0 Severability**

- (1) Where a court of competent jurisdiction declares any section of this By-law to be invalid, or to be not in force, or without effect, the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **19.0 Transition**

- (1) If charges were laid under a previously repealed by-law at the time it was enacted, they are still valid.
- (2) This By-law applies to all *Fences Erected* as of the date this By-law is enacted.
- (3) Any *Fence* or *Swimming Pool Enclosures* that were lawfully *Erected* prior to the enactment of the by-law is deemed to comply with this By-law until they are

replaced, and any replacement *Fence* or *Swimming Pool* shall comply with this By-law.

- (4) This By-law does not apply to *Fences* previously exempted by *City Council*.

#### **20.0 Conflict with other City by-laws**

- (1) Where there is a conflict or contradiction between this By-law and any other by-law of the *City*, the provisions establishing the more restrictive standard shall prevail.

#### **21.0 Repeal of other by-laws**

- (1) The Fence By-law No. 80-90, and its amending by-laws, 240-99, 162-2004, 203-2006, 208-2007, 29-2014 and its amending by-laws, are hereby repealed and replaced.

#### **22.0 Force and effect**

- (1) This By-law shall come into force and effect on the date it is enacted.

Enacted by City of Vaughan Council this 15<sup>th</sup> day of December, 2020.

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Hon. Maurizio Bevilacqua, Mayor

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Todd Coles, City Clerk

## **Schedule “A” – Swimming Pool Enclosure Requirements**

### **Height and Entrance Requirements**

(1) The *Owner* of a pool shall *Erect* and maintain around the pool a *Fence* or wall, or combination thereof, which shall meet the following criteria:

- (a) A wall including the outside wall of a building may be used as one or more sides of a *Fence* provided that the main entrance to the building shall not be located in such wall. If a service entrance is located in such a wall, it shall have a self-closing door equipped with a self-latch device located not less than 1.22 metres (approximately 4 feet) above the bottom of the door.
- (b) The *Fence* and/or wall shall be a minimum of 1.22 metres (approximately 4 feet) in *Height* above the *Grade* of the lands. The *Grade* of the lands for the purpose of this section shall mean the *Grade* of the lands located on the outside of the *Fence* located within 0.9 metres (approximately 3 feet) of the *Fence*.
- (c) Notwithstanding Schedule “A” section (1), if a *Swimming Pool Enclosure* is *Erected* in compliance with this provision and the *Grade* of the lands that are adjacent to the *Lot* on which the *Swimming Pool* is *Erected* is raised, the *Swimming Pool Enclosure* shall be deemed to remain in compliance.

### **Materials and Standards**

(2) The *Swimming Pool Enclosure* shall be constructed by the *Owner* with the following materials and standards:

- (a) A Chain Link *Fence* may be *Erected* provided that such a *Fence* shall not be less than 12-gauge wire with not more than 3.7-centimetre (approximately 1.5 inches) mesh, or other chain link of equivalent strength with mesh not exceeding 3.7 centimetres (approximately 1.5 inches);
- (b) A Wood Board *Fence* or Wrought Iron *Fence* may be *Erected* provided that such *Fence* meet the following criteria:
  - i. Vertical boards or iron bars shall not be placed more than 10 centimetres (approximately 4 inches) apart.
  - ii. Vertical boards shall be of not less than 1.90 centimetre by 8.90



centimetre (approximately 1 inch by 4-inch lumber) and shall be attached to rails that are not less than 3.8 centimetre by 8.9 centimetre (approximately 2 inches by 4-inches) in size.

- i. The rails of vertical boards shall be supported on posts that are a minimum dimension of 10.0 centimetre (approximately 4 inches) spaced not more than 2.4 metres (approximately 8 feet) apart and embedded to a minimum *Depth* of 0.60 metres (approximately 2 feet) below *Grade*.

(c) A glass *Swimming Pool Enclosure* may be *Erected* provided that such *Fence* meet the following criteria:

- iii. Glass panels shall be located so there is no opening of more than 3.8 centimetres between the panel and the post where horizontal elements are spaced less than 1.2 metres (approximately 4 feet) apart, and not more than 10.0 centimetres (approximately 3.9 inches) apart where horizontal elements are spaced more than 1.2 metres (approximately 4 feet) apart;
- iv. Horizontal elements shall be supported on posts that are spaced not more than 2.4 metres apart (approximately 8 feet), securely fastened to the ground and structurally sound.
- v. The *Swimming Pool Enclosure* meets Canadian General Standards Board (CAN/CGSB) standards, including CAN/CGSB-12.1-M Glass standards for Tempered or Laminated Safety Glass or Wired Safety Glass, or successor standards, to the satisfaction of *City* staff.

(d) A metal picket *Fence* used in a *Swimming Pool Enclosure* shall be constructed as follows:

- i. Vertical pickets shall be spaced not more than 3.8 centimetres apart where horizontal rails are spaced less than 1.2 metres (approximately 4 feet) apart and not more than 10.0 centimetres apart where horizontal rails are spaced at least 1.2 metres (approximately 4 feet) apart; and
- ii. Horizontal rails shall be supported on posts that are spaced not more

than 2.4 metres apart, securely fastened to the ground and structurally sound.

(e) A masonry wall that is not a part of a building and is used in a *Swimming Pool Enclosure* as follows:

- i. The wall shall present a minimum 1.2-metre (approximately 4 feet) *Non-Climbable* surface to the exterior of the enclosed area.
- ii. It shall be constructed of a minimum double course brick or single course concrete block with a minimum width of 20.0 centimetres, and securely attached to a minimum 1.2-metre (approximately 4 feet) deep concrete foundation.
- iii. Where the wall abuts a building or gate there shall be no opening between the wall and the building or gate which exceeds 3.8 centimetres where there are horizontal elements less than 1.2 metres (approximately 4 feet) apart, or which exceeds 10.0 centimetres where there are no horizontal elements or where horizontal elements are in excess of 1.2 metres apart.
- iv. All components of a masonry wall used as a part of a *Swimming Pool Enclosure* shall conform with CSA S304.1.

(f) Other forms of *Swimming Pool Enclosures* may be *Erected* provided that they are constructed to be similarly *Non-Climbable* and provide an equivalent degree of safety, such that for the first 1.2 vertical metres (approximately 4 feet) of the *Swimming Pool Enclosure*, as measured from *Grade* upwards must meet the following applicable conditions:

- i. any *Swimming Pool Enclosure* of chain link construction, has mesh not greater than 3.8 square centimetres (approximately 1.5 square inches) for a minimum of 1.2 metres (approximately 4 feet) vertically;
- ii. no horizontal opening or step is greater than 3.8 square centimetres (approximately 1.5 square inches) in width for 1.2 metres (approximately 4 feet) vertically, or where horizontal components are a minimum of 1.2 metres (approximately 4 feet) apart, there shall be no opening greater than 10.0 centimetres (approximately 4 inches);

- iii. any diagonal components, such as a lattice *Fence*, the maximum opening formed by the diagonal members should be no more than 3.8 square centimetres (approximately square 1.5 inches) for a minimum of 1.2 metres (approximately 4 feet) from *Grade*;

### **Requirements – Swimming Pool Enclosure Gates**

(3) The *Owner* is required to all gates in the *Swimming Pool Enclosure* shall meet the following requirements:

- (a) It shall be constructed of similar Chain Link fencing material as the *Swimming Pool Enclosure* or of a material of equivalent or greater strength.
- (b) It will not have more than 3.7-centimetre (approximately 1.5-inch) mesh.
- (c) It will have an equivalent degree of safety as the supporting *Swimming Pool Enclosure*.
- (d) It shall comply with the *Height* requirements for the *Swimming Pool Enclosure*.
- (e) It shall be supported by hinges and be equipped with self-closing and self-latching devices on the inside of the Gate at a point not less than 1.22 metres (approximately 4 feet) in *Height*.
  - a. All automatic closing devices and their power back-up systems shall be in compliance with the applicable product and installation standards of the Canadian Standards Association.
- (f) Shall be constructed so that there shall not be a projection, rail, attachment or bracing that will facilitate climbing thereof from the outside.
- (g) Shall be kept closed and locked at all times.
- (h) The bottom of the gate shall be located not more than 5.0-centimetres (approximately 2 inches) above *Grade* at any point.

### **Lockable Cover**

(4) If a *Swimming Pool* has a lockable cover, the *Owner* must close and lock when the cover when *Pool* area is not in active use.