

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee
From: George Kotsifas, P. Eng.
Managing Director, Development & Compliance Services
and Chief Building Official
Subject: Swimming Pool Fence Permit Fee Review (Item for Direction)
Meeting on: September 10, 2018

Recommendation

That on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting to be held on September 18, 2018 to amend **By-law No. PS-5**, as amended, entitled "Swimming Pool Fence By-law" in order to **amend fee Schedule "A" relating to pool fence application permits**, it being noted the last swimming pool fence fee increase took place in 1997.

Executive Summary

Summary of Request

This report is in relation to an update of the current fee schedule for swimming pool fence permits. An increase in fees is proposed to recover the cost of administration, application review and conducting on-site inspections in accordance with the requirements of the Swimming Pool Fence By-law (PS-5).

Purpose and the Effect of Recommended Action

The purpose and effect of the report is two-fold: (1) increase the fee from the current \$9.00 per \$1000.00 of total estimated swimming pool and fence construction value to \$12.50 per \$1000.00 and, (2) increase the minimum swimming pool fence permit fee from the current \$50.00 to \$200.00.

Rationale of Recommended Action

The existing fee schedule detailed in Schedule 'A' of the Swimming Pool Fence By-law (PS-5) was established over 20 years ago and has not been updated to offset any inflationary and/or administration costs since coming into effect on April 7, 1997. It is recommended that City Council implement an updated permit fee schedule in an effort to recover the increased costs associated with administration and enforcement of the Swimming Pool Fence By-law that have taken place during this timeframe.

Analysis

1.0 Background

City of London Development and Compliance Services staff have undertaken a review of the current fee structure relating to permit issuance as based on the requirements of the Swimming Pool Fence By-Law (PS-5 – Consolidated May 3, 2010), including a comparative review of other municipal jurisdictions, detailed in Appendix 'B' of this report. The existing fee schedule detailed in Appendix 'C' was established over 20 years ago and has been unaltered since coming into effect on April 7, 1997.

The Swimming Pool Fence By-law requires that every swimming pool, as defined by the By-law, be completely enclosed by a fence. Whether the fence is new or existing, a permit is required before the swimming pool can be installed. Pool enclosure by-laws are established primarily to ensure public safety by establishing a number of basic requirements for appropriate fencing construction and the outfitting of gating mechanisms for property owners wanting to install a backyard swimming pool.

2.0 Process Review

When an applicant attends the City of London's Building Division, the applicant can meet with staff to undertake a preliminary permit review. Once a complete application is received and fees are paid, staff undertake a full plan examination. This examination includes review for compliance with the Zoning By-law, Swimming Pool Fence By-Law and any other regulatory requirements that may be applicable.

After a permit is issued by the Building Division, a Municipal Law Enforcement Officer (MLEO) will undertake an onsite inspection to ensure compliance with all the applicable regulations and submitted plans. Typically it takes a minimum of two field inspections to achieve compliance. When all this is completed and there are no further deficiencies, the swimming pool fence permit is closed.

3.0 Rationale to Increase Permit Fees

Costs associated with processing swimming pool fence permits and compliance review include both direct and indirect costs. Direct costs associated with the day to day activities relating to permit intake and processing include front counter duties with the applicant, plans review, permit issuance, field inspections, enforcement actions when necessary, and other related administrative duties. Indirect Costs are costs related to fixed operating expenses for the City of London and are generally apportioned to various service areas across the Corporation. Both of these types of costs tend to increase over time due to inflationary pressures. The current fee structure does not allow the Building Division to recoup the full cost of service delivery at current fee levels.

The current fee schedule for swimming pool fence permits is based on a two-tier fee structure. A minimum fee of \$50.00 is typically applied to smaller projects where construction value is less than or equal to \$5555.00. For those proposed projects that exceed \$5555.00 in construction value, permit fees are calculated based on \$9 per \$1,000.00 of estimated construction value. The proposed fee increase is intended to establish a cost recovery fee model that accounts for both the direct and indirect costs associated with the day to day administration of the permit review and inspection process, while recognizing that substantial cost escalations have taken place since the last fee increase.

As part of our permit fee increase review, City staff consulted with the swimming pool industry stakeholders and as of the publishing of this report have received no comments.

3.0 Conclusion

The current rates for swimming pool fence permits in the City of London have not been updated since 1997 whereas administrative and operational expenses have obviously increased during this time. Building Division staff recommend a revised permit fee of \$12.50 per \$1000.00 of estimated construction value with a minimum base permit fee of \$200.00. The proposed fee increase is reasonable given the length of time that has elapsed since the last review, the increased costs incurred to administer the Swimming Pool Fence By-Law and the fact that the proposed increase is very much in line with permit fee structures of other comparable municipalities across southwestern Ontario.

Moving forward, in order to reduce the length of time between swimming pool fence fee reviews, the Building Division will establish an internal procedure to conduct a permit fee analysis every 5 years to ensure our cost of service delivery is recovered.

Prepared by:	<p>John-Paul Sousa Business and Zoning Coordinator, Development and Compliance Services – Building Division</p>
Prepared by:	<p>Adam Salton Manager, Zoning and Public Property Compliance, Development and Compliance Services – Building Division</p>
Recommended By:	<p>George Kotsifas, P. Eng Managing Director, Development and Compliance Services and Chief Building Official</p>
Concurred By:	<p>Peter Kokkoros, P. Eng Deputy Chief Building Official, Development and Compliance Services – Building Division</p>

August 31, 2018
 JPS/AS/PK/GK/

Bill No. XXXXX

By-law No. PS-5-10004

A By-law to amend By-law PS-5 entitled
“A by-law to provide for the owners of
privately-owned outdoor swimming pools
to erect and maintain fences”

WHEREAS pursuant to paragraph 30 of section 210 of the Municipal Act, R.S.O. 1990, c. M.45, as amended, a by-law may be passed to issue permits for swimming pool fences and to prescribe safety standards for privately owned outdoor swimming pools;

WHEREAS section 220.1 of the Municipal Act, R.S.O. 1990, c. M.45, as amended by section 10 of Schedule M of the Savings and Restructuring Act, 1996 provides that the Council may by by-law impose fees for services and activities provided or done by or on behalf of The Corporation of the City of London;

AND WHEREAS it is expedient to impose fees for certain services provided by Development and Compliance Services;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Schedule “A” is hereby deleted in its entirety and replaced therefor with the following:

**SCHEDULE ‘A’
PERMIT FEES**

1. New swimming pool fence permit fee is \$12.50 per \$1,000.00 of total swimming pool and fence construction value with a minimum fee of \$200.00.
2. Replacement swimming pool fence permit fee is \$12.50 per \$1,000.00 of fence construction value with a minimum fee of \$200.00.

2. This by-law shall come into force on the day it is passed.

PASSED in Open Council on September 18, 2018

Matt Brown
Mayor

Catharine Saunders
City Clerk

First reading – September 18, 2018
Second reading – September 18, 2018
Third reading – September 18, 2018

Appendix B – Municipal Fee Comparative Review

Municipality	Fee Structure Type	Amount
Burlington	Flat Fee	\$305.00
Cambridge	Flat Fee distinguished by permit type	<ul style="list-style-type: none"> ▪ Inflatable pool & fencing: \$135.00 ▪ Above ground pool and enclosure: \$160.00 ▪ In-ground pool & fencing: \$215.00
Guelph	Flat Fee	\$200.00
Hamilton	Flat Fee	\$165.00
Middlesex Centre	Flat Fee	\$335.00
Norfolk County	Progressing Fee	For the first \$3,000.00 of construction costs \$45.00 For each additional \$1,000.00 or part thereof \$11.00
Oakville	Flat Fee	\$282.00
Stratford	Flat Fee distinguished by permit type	<ul style="list-style-type: none"> ▪ Above ground pool: \$229.00 ▪ Pool in-ground pool: \$369.00
Vaughan	Flat Fee	\$409.00
Waterloo	Flat Fee	\$162.00
Windsor	Tiered	\$13.50 per \$1000.00 of estimated value with a minimum fee of \$200.00
Examples of Swimming Pool Fence Permits		
	Municipal Average Fee	Proposed London Fee
An inflatable pool with an estimated construction value of \$100	\$224.27	\$200.00
An above ground pool with an estimated construction value of \$16,000	\$241.00	\$200.00
An in-ground pool with an estimated construction value of \$20,000	\$265.73	\$250.00
Notes:		
<ul style="list-style-type: none"> - Estimated construction value includes cost of swimming pool and fence - Average estimated construction value of permits issued in London for 2017 was \$19,665 - Median estimated construction value of permits issued in London for 2017 was \$20,000 		

Appendix C – Existing Permit Fees - Schedule 'A'

1. New swimming pool fence permit fee is \$9.00 per \$1,000.00 of total swimming pool and fence construction with a minimum fee of \$50.00.
2. Replacement swimming pool fence permit fee is \$9.00 per \$1,000.00 of fence construction value with a minimum fee of \$50.00