

<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE FEBRUARY 19, 2020</b>
<b>FROM:</b>	<b>G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES &amp; CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>SWIMMING POOL FENCE BY-LAW PROPOSED AMENDMENTS</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Development & Compliance Services & Chief Building Official:

- (a) This report **BE RECEIVED** for information purposes; and
- (b) Civic Administration **BE DIRECTED** to prepare amendments to the Swimming Pool Fence By-law and hold a Public Participation Meeting before the Community and Protective Services Committee to modernize the regulations and enhance public safety.

<b>BACKGROUND</b>
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The Swimming Pool Fence By-law (PS-5) was last amended in 2010. The authority for the Swimming Pool Fence By-law (By-law) comes from the Municipal Act. The By-law requires property owners to meet the minimum requirements of the By-law when installing a swimming pool. There are also provisions that regulate the requirements of on-going maintenance of the fence for the duration that it encloses a swimming pool. The intent of the By-law is to provide safety standards for privately owned outdoor swimming pools.

**How is the Swimming Pool Fence By-law enforced?**

Swimming Pool Fence By-law occurrences/inspections are initiated the following manners:

- Following the issuance of a swimming pool fence permit to the property owner
- Community complaint
- Referral from partner agency
- Proactively as part of enforcement observations
- Lawyers letter request as part of a property ownership transaction

In 2019, there were 314 Swimming Pool Fence By-law occurrences (excluding lawyers letters). Of the 314 total occurrences, 210 were in connection to newly installed pools, and the remaining 104 occurrences were with regard to non-compliant swimming pool fences, or for swimming pools that had been installed without first having obtained a swimming pool fence permit. Historically for the past 5 years, these numbers are relatively consistent, with a range of complaints from 90-130 per year, and approximately 200 to 225 swimming pool fence permits issued annually.

**What potential amendments are under review?**

The following considerations are under review in an effort provide further clarity, and/or to create stronger safety measures:

- Add a clause regarding the governing measure, metric versus imperial

- Review the definition of gate to add clarity around vehicle doors within a garage providing direct access to the pool area when open
- Review the definition of swimming pool and determine if a “lap tub” should be included/excluded (a lap tub/swim spa is a machine that allows you to swim continuously against a water current)
- Review the definition of self-closing device and potentially include an automatic, non-manually operated, garage door closing mechanism
- Review the definition of swimming pool in an effort to exclude ornamental fish/garden ponds
- Add a section to stipulate a maximum fence height that parallels the Fence By-law
- Review section 3.7 to better address reduction of fence height caused by landscaping, grade change, accessory structure, play equipment, or other object placement
- Consider including wording to address the potential adverse effects around drainage to neighbouring properties where of grade changes have taken place, and/or pool sump pumps installed
- Add a permit expiry clause should the installation of the pool not commence following a specified amount of time
- Review spacing/opening minimums where they pertain to decorative gate inserts, and do not increase the potential of climbing
- Amend section 5.3 where it addresses the vertical distance between each horizontal member (housekeeping item)
- Review sections 5.5 and 5.6 regarding horizontal members and “climb ability”

### **How are the Swimming Pool Fence regulations enforced?**

The enforcement of the Swimming Pool Fence By-law will be done in the same manner as other by-laws. However, given that a deficiency may impair the ability to adequately secure the pool, this type of complaint will take priority and result in an inspection within a 24 to 48 hour period. Where there is an immediate life safety concern, the By-law provides the Chief Building Official, or their designate to remedy at the owner’s expense. In addition, where compliance is not achieved, Municipal Law Enforcement Officers will have the discretion to issue Administrative Monetary Penalties (AMPs). A report on applying AMPs to non-parking by-law violations will be presented to the CPSC in March or April 2020.

<b>CONCLUSION</b>
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Prior to a public participation meeting, Civic Administration will engage the pool industry through the membership of the Pool and Hot Tub Council of Canada. In addition Civic Administration will conduct municipal comparisons, and review best practices. This will be a collaborative approach in the review and updating of an existing by-law for public safety.

<b>SUBMITTED BY:</b>	<b>REVIEWED AND CONCURRED BY:</b>
<b>HEATHER CHAPMAN, MLEO (C) MANAGER, MUNICIPAL LAW ENFORCEMENT SERVICES</b>	<b>OREST KATOLYK, MLEO (C) CHIEF MUNICIPAL LAW ENFORCEMENT OFFICER</b>
<b>RECOMMENDED BY:</b>	
<b>GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>	