

Bill No. 206
2021

By-law No. PS-5-21_____

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 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 section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001* or any other Act;

AND WHEREAS subsection 10(1) 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 subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 6. Health, safety and well-being of persons; in paragraph 8. Protection of persons and property; in paragraph 10. Structures, including fences and signs;

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

1. By-law PS-5 is amended by deleting the Title and replacing it with the following new Title: “A by-law to provide for the owners of privately-owned outdoor swimming pools to erect and maintain fences and to provide a pool grading and drainage plan”.
2. By-law PS-5 is amended by deleting the Short Title and replacing it with the following new Short Title: “Swimming Pool Fence and Swimming Pool Regulation By-law”.
3. By-law PS-5 is amended in section 1.1 by:
 - (i) repealing and replacing the definition for “Gate” as follows:

““Gate” shall mean any part of a swimming pool fence which opens on hinges and includes a door located in the wall of an attached or detached garage or carport which forms part of the swimming pool fence, but does not include an overhead garage door, or slide to the side garage door.”
 - (ii) adding a new definition for “Overhead garage door” as follows:

““Overhead garage door” shall mean any garage door that opens overhead, which is intended to allow for vehicular entry to, and exit from, the garage.”
 - (iii) adding a new definition for “Slide to the Side garage door” as follows:

““Slide to the Side garage door” shall mean any garage door that opens to the side instead of overhead, which is intended to allow for vehicular entry to, and exit from, the garage.”
 - (iv) in the definition of “swimming pool”, repealing subsection (g) and replacing it with the following new subsection (g):

“(g) but excludes hydro massage pool and lap pools if they have a lid that is fitted and secured when not in use; and”

4. By-law PS-5 is amended by inserting a new section 2.8 as follows:

“2.8 Metric / Imperial

Imperial measurements are provided solely for the purpose of convenience. In the event of a conflict between the metric and imperial measurements provided in this by-law, the metric measurements shall prevail.”

5. By-law PS-5 is amended by repealing section 3.7 and replacing it with the following new section 3.7:

“3.7 Storage of materials – against outside of swimming pool fence

No owner of a pool shall place or store materials against the outside of a swimming pool fence.”

6. Subsection 3.12(b) of By-law PS-5 is repealed and replaced with the following new subsection 3.12(b):

“Construction of swimming pool – swimming pool fence permit – temporary fence – filling with water

(b) Despite subsection 3.12(a), where a person is constructing or causing to be constructed a swimming pool for which a swimming pool fence permit has been issued, a person may place water in a swimming pool or cause or permit water to remain in the swimming pool only if all of the following are complied with:

- (i) temporary fencing is in place in compliance with section 5.10 of this by-law; and
- (ii) the owner or agent notifies the City on or before the day that water is placed in the pool at the email address pfinspection@london.ca; and
- (iii) the temporary fencing is in place for no longer than 120 days after water is first placed in the pool or the City receives the notification email, whichever occurs sooner.”

7. Section 4.2 of By-law PS-5 is repealed and replaced by the following new section 4.2:

“4.2 Application - documentation to accompany - set out

All such applications shall be accompanied by the following:

- (a) plans showing the location of the proposed swimming pool including all enclosing swimming pool fences, together with full details of each entrance and showing the location of all proposed swimming pool equipment such as filters, slides and heaters;
- (b) the applicable fee as prescribed in Schedule ‘A’ of this by-law;
- (c) an undertaking to repair damage to City property as required by-law; and
- (d) for swimming pools located all or partially in ground, a pool grading and drainage plan approved by a Professional Engineer, Ontario Land Surveyor, Architect, Landscape Architect, or drainage contractor licensed in the Province of Ontario, showing compliance with zoning by-law minimum set-back requirements, and showing that drainage to neighbouring properties is not affected.

An application for a permit shall be deemed to be denied if the applicant has not submitted all of the required documents and fees as required in this section within 90 days of submitting the application.”

8. Section 4.3 of By-law PS-5 is amended by adding the following sentence at the end of the paragraph:

“Any permit issued by the chief building official on or after May 4th, 2021 shall expire 18 months after issuance if a pool and fence have not been constructed within that time in accordance with the by-law.”

9. Section 5.1 of By-law PS-5 is amended by adding the phrase “but not greater than the height allowed in the Fence By-law” after the phrase “not less than 153 centimetres (60 inches).”

10. By-law PS-5 is amended by repealing section 5.3 and replacing it with a new section 5.3 as follows:

“5.3 Opening - maximum diameter - exception - conditions
For other than chain link fences, where the vertical distance between each horizontal rail measured from the top of the bottom rail, to the top of the next one above it, is 1.15 metres or greater, the openings in the fence are permitted to be greater than 3.8 cm but not greater than that which would allow the passage of a spherical object having a diameter of 10 cm.”

11. By-law PS-5 is amended by repealing section 5.6 and replacing it with a new section 5.6 as follows:

“5.6 Construction - to prevent unauthorized entry
Every swimming pool shall be enclosed by a swimming pool fence which is of sturdy construction, capable of preventing unauthorized entry. Any fence which predominantly consists of horizontal face boards, planks, or panels, installed between any vertical posts, shall not be permitted to have any openings greater than 2 cm between the face boards, planks, or panels, for any portion of the fence below the height of 1.15 m measured from ground level.”

12. By-law PS-5 is amended by inserting a new section 5.10 as follows:

“5.10 Overhead and Slide to the Side Garage Door – requirements
Every pool facing overhead garage door, or pool facing slide to the side garage door that makes up part of the swimming pool fence shall be equipped with a device that without manual activation, automatically closes the overhead garage door, or slide to the side garage door within one minute of being passed through; and where the garage contains both a front and rear overhead or slide to the side garage door to create a through way, only one of the two doors may remain open following the clearance of a vehicle, object, or person.”

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

PASSED in Open Council on May 4, 2021

Ed Holder
Mayor

Catharine Saunders
City Clerk

First reading – May 4, 2021
Second reading – May 4, 2021
Third reading – May 4, 2021