

SUBJECT: Pool Enclosure Update

File Number ACS2022-PIE-GEN-0006

Report to Planning Committee on 9 June 2022

and Council 22 June 2022

Submitted on May 16, 2022 by John Buck, Chief Building Official, Real Estate and Economic Development Department

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE

OBJET : Mise à jour sur les enceintes de piscine

Dossier : ACS2022-PIE-GEN-0006

Rapport au Comité de l'urbanisme

le 9 juin 2022

et au Conseil le 22 juin 2022

Soumis le 2022-05-16 par John Buck, Chef du service du bâtiment, Services de la planification, de l'immobilier et du développement économique

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Quartier : CITY WIDE / À L'ÉCHELLE DE LA VILLE

REPORT RECOMMENDATION

That the Planning Committee recommend Council approve amendments to the Pool Enclosure By-law (By-law 2013-39), as detailed in Document 2.

RECOMMANDATION DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil d'approuver les modifications au Règlement sur les enceintes de piscine (Règlement 2013-39), comme l'explique en détail le document 2.

BACKGROUND

The current Pool Enclosure By-law has been in effect since 2013. It represented a substantial step in addressing water safety concerning pools and similar bodies of water that posed a potential drowning risk for children in particular. At the time, growing attention was being paid to the incidences of accidental drownings, particularly the drownings of young children. In 2010, the Office of the Chief Coroner of Ontario released a report on the causes and context of drownings in Ontario over the course of that summer. The report recommended the installation of fencing around private pools to limit access to the pool by children. City staff also conducted scans of municipalities on their respective regulations governing pools and bodies of water which informed Council's decision to require secure locks on enclosures at all times when the pool is not in use.

By-law 2013-39 established firmer rules around the requirements of enclosing all privately owned pools through the provision of minimum standards for fencing and the requirement that gates be locked when the pool is not in use.

On April 24, 2019, Council approved a By-law Review Framework, establishing key components and requirements that will guide departments in the review, update and development of the City's public facing/regulatory by-laws.

The Council-approved By-law Review Work Plan (2019-2022) sets out the regulatory projects and by-law reviews scheduled for this Term of Council. The projects and reviews were prioritized based on Council-approved criteria. As part of the approved workplan Planning, Real Estate & Economic Development Department (committed to reviewing the Pool Enclosure By-law 2013-39: A by-law of the City of Ottawa to regulate enclosures for privately-owned outdoor pools.

DISCUSSION

The review of the Pool Enclosure By-law is staff's response to Council direction provided at the September 11, 2019 Meeting of Council through the adoption of the 2019-2022 By-law Review Work Plan ([ACS2019-EPS-GEN-0009](#)).

Staff have reviewed the current By-law, as amended, and have determined that the approach of the By-law continues to appropriately serve the city of Ottawa. The purpose of the proposed by-law amendment is to clarify the intent of the By-law by focusing on its foundational principles and providing greater clarity, where required. The new by-law will also update definitions and bring the by-law's wording in alignment with other Building Code Services By-laws.

Purpose

In Ontario, over 90 per cent of drowning deaths of those under the age of five are attributable to absent or distracted supervision. The Pool Enclosure By-law's principal purpose is to protect children, particularly those under the age of five, from accessing a private pool during a lapse in supervision by blocking access through locked gates and fencing.

The *Municipal Act* provides authority to municipalities to pass by-laws for the health, safety and well-being of persons, and to regulate fences in general. Through the *Act*, the City of Ottawa has since 2001 required an enclosure surrounding privately owned pools and similar bodies of water. The existing By-law was approved by Council in 2013. It represented, at the time, a comprehensive evaluation rethink of pool safety in the City of Ottawa and brought the By-law's requirements in line with the recommendations of the Chief Coroner of Ontario. Several provisions had overly prescriptive specifications for the construction of pool enclosure structures.

As a result of the current review, staff are recommending it is appropriate to provide latitude beyond prescriptive requirements, while emphasising foundational principles. For example, moving away from mandating the depth of fence posts to simply requiring that posts be structurally adequate and durable for the intended use. These changes will give building officials greater discretion in reviewing pool enclosure structures and will provide members of the public greater certainty concerning the intent of the By-law's provisions.

A full description of proposed changes can be found in Document 1.

FINANCIAL IMPLICATIONS

There are no financial implications.

LEGAL IMPLICATIONS

There are no legal implications associated with the recommendation set out in this report.

COMMENTS BY THE WARD COUNCILLORS

This is a City- wide report – not applicable.

CONSULTATION

No consultation was required as the changes to the By-law are only minor in nature.

ACCESSIBILITY IMPACTS

There are no accessibility impacts with respect to this report.

RISK MANAGEMENT IMPLICATIONS

There are no risks identified with respect to this report.

RURAL IMPLICATIONS

There are no rural specific implications with respect to this report.

TERM OF COUNCIL PRIORITIES

This report addresses the following Terms of Council Priorities

- Thriving Communities

SUPPORTING DOCUMENTATION

Document 1 Summary of Proposed Changes

Document 2 Proposed Amendments to the By-law

DISPOSITION

Building Code Services, together with Innovative Client Services Department, will bring forward the amending by-law to Council.

Document 1 – Summary of Proposed Changes to the Pool Enclosure By-law

Summary of Proposed Changes to the Pool Enclosure By-law

| Status | Article | Section | Wording |
|--------------------------|----------------|-----------------------------|---|
| Existing | 1 | PART 1 - DEFINITIONS | “Director” means the person in the office of Director of Building Code Services in the Department of Planning and Growth Management, or authorized delegates (directeur); |
| Proposed | 1 | PART 1 - DEFINITIONS | “Chief Building Official” means the person in the office of Chief Building Official, or authorized delegates |
| Justification for change | | | Director title no longer applies to Chief Building Official |
| Status | Section | | Wording |
| Existing | As found. | | Director |
| Proposed | Revised to | | Chief Building Official |
| Justification for change | | | Recognize title change from Director to Chief Building Official |
| Status | Article | Section | Wording |
| Existing | 15 | APPLICATION FOR A PERMIT | An application for a Permit for a pool enclosure shall be in the form required by the Director, and shall be accompanied by the fee set |

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| | | | out in Schedule ' A ' of this by-law, two (2) sets of fully dimensional plans, and with supporting documentation: |
| Proposed | 15 | APPLICATION FOR A PERMIT | <p>The owner or authorized agent shall submit plans, specifications, documents and other information necessary for the complete review of the pool enclosure permit submission and construction, as required by the Chief Building Official,</p> <p>Submission for permit application to be submitted as:</p> <p>a) Two complete hard copy sets of plans, specifications, documents and other information. Hard copies must be printed on substantial and durable material, or,</p> <p>b) Where, in the opinion of the Chief Building Official, a copy of the plans, specifications and applicable documents may be submitted digitally in a portable document format or equivalent.</p> |
| Justification for change | | | Alignment with Building Bylaw |
| Status | Article | Section | Wording |
| Existing | 16(1) | CANCELLATION AND REVOCATION | An application for a Permit will remain active for a period of six (6) months from the date of receipt. After six (6) months, if the Permit is not issued, the application shall be deemed abandoned and the Director shall cancel the application and the application fee shall be forfeited. |

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| Proposed | 16(1) | CANCELLATION AND REVOCAATION | Revise 16(1) to delete “shall” and substitute with “may” |
| Justification for change | | | To reflect similar wording for other types of building permits. |
| Status | Article | Section | Wording |
| Existing | 18 | CANCELLATION AND REVOCAATION | A Permit shall be valid for eighteen (18) months from the date the Permit was issued. |
| Proposed | 18 | CANCELLATION AND REVOCAATION | Delete |
| Justification for change | | | Permit is valid from date issued in perpetuity. If there is a need to cancel this is addressed under Subsection 16(1) |
| Status | Article | Section | Wording |
| Existing | 20.(f) | PART 6 - ENCLOSURE SPECIFICATIONS GENERAL SPECIFICATIONS | No attachment that can facilitate climbing shall be fixed or placed on the exterior face of an enclosure between 100 mm and 1042 mm, measured from the bottom of the enclosure |

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| Proposed | 20.(f) | PART 6 - ENCLOSURE SPECIFICATIONS GENERAL SPECIFICATIONS | no attachment or object that can facilitate climbing shall be fixed or placed on the exterior face of an enclosure between 140 mm and 900 mm, measured from the bottom of the enclosure |
| Justification for change | | | Clarification of intent |
| Status | Article | Section | Wording |
| Existing | 28.(c) | CHAIN LINK CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, which shall extend at least 1.2 metres below grade, or be constructed in such a manner as to be non-frost susceptible; and which posts shall be encased in concrete at least 50 mm thick all around; |
| Proposed | 28.(c) | CHAIN LINK CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, be structurally adequate and durable for the intended use. |
| Justification for change | | | To emphasis the intent of the provision and to provide discretion concerning the construction of the fence. |
| Status | Article | Section | Wording |
| Existing | 29.(d) | VERTICAL BOARD | have every support post securely imbedded in the ground and shall extend at least 1.2 metres below grade, or be constructed in such a |

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| | | CONSTRUCTION SPECIFICATIONS | manner as to be non-frost susceptible; and which posts shall be encased in concrete at least 50 mm thick all around; |
| Proposed | 29.(d) | VERTICAL BOARD CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, be structurally adequate and durable for the intended use. |
| Justification for change | | | To emphasis the intent of the provision and to provide discretion concerning the construction of the fence. |
| Status | Article | Section | Wording |
| Existing | 30 (d) | WROUGHT IRON, ALUMINUM, OR VINYL TYPE CONSTRUCTION SPECIFICATIONS | Every enclosure of wrought iron, aluminum or vinyl type construction shall: (d) have every support post extend at least 1.2 metres below grade, or be constructed in such a manner as to be non-frost susceptible; and shall be encased in concrete at least 50 mm thick all around; |
| Proposed | 30 (d) | WROUGHT IRON, ALUMINUM, OR VINYL TYPE CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, be structurally adequate and durable for the intended use |
| Justification for change | | | To emphasize the intent of the provision and to provide discretion concerning the construction of the fence. |

| Status | Article | Section | Wording |
|--------------------------|---------|----------------------|---|
| Existing | 37 (a) | TEMPORARY ENCLOSURES | <p>Every temporary enclosure shall be constructed as follows:</p> <p>(a) with steel "T" posts spaced at not more than 2.4 metres centres, and embedded at least 300 mm into the ground, with 38 mm diamond mesh chain link fencing at least 1.5 metres high, that is securely fastened to the posts at 200 mm 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;</p> |
| Proposed | 37 (a) | TEMPORARY ENCLOSURES | <p>Every temporary enclosure shall be constructed as follows:</p> <ol style="list-style-type: none"> 1. Be minimum 1.5m high from grade, 2. Be non-climbable from 140mm-900mm, 3. Be continuous around the pool, 4. Be structurally adequate, 5. Be durable for the intended use, and, 6. All openings be locked when the temporary enclosure is not being used for access or egress |
| Justification for Change | | | <p>To emphasize the intent of the provision and to provide discretion concerning the construction of the fence.</p> |

| Status | Article | Section | Wording |
|--------------------------|---------|------------------------|--|
| Existing | 55 | Offences and Penalties | Every person who contravenes any of the provisions of this by-law is guilty of an offence. |
| Proposed | 55 | Offences and Penalties | Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the <i>Provincial Offences Act</i> , R.S.O. 1990, Chapter P.33, as amended. |
| Justification for Change | | | To align enforcement section with similar regulatory by-laws. |

Document 2 – Proposed Amendments to the Pool Enclosure By-law

Amendments to Building By-law are proposed with the general intention of the following:

| Status | Article | Section | Wording |
|---------------|----------------|-----------------------------|--|
| Existing | 1 | PART 1 - DEFINITIONS | “Director” means the person in the office of Director of Building Code Services in the Department of Planning and Growth Management, or authorized delegates (directeur); |
| Proposed | 1 | PART 1 - DEFINITIONS | “Chief Building Official” means the person in the office of Chief Building Official, or authorized delegates |
| Status | Section | | Wording |
| Existing | As found. | | Director |
| Proposed | Revised to | | Chief Building Official |
| Status | Article | Section | Wording |
| Existing | 15 | APPLICATION FOR A PERMIT | An application for a Permit for a pool enclosure shall be in the form required by the Director, and shall be accompanied by the fee set out in Schedule ' A' of this by-law, two (2) sets of fully dimensional plans, and with supporting documentation: |
| Proposed | 15 | APPLICATION FOR A PERMIT | The owner or authorized agent shall submit plans, specifications, documents and other information necessary for the complete review |

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| | | | <p>of the pool enclosure permit submission and construction, as required by the Chief Building Official,</p> <p>Submission for permit application to be submitted as:</p> <p>a) Two complete hard copy sets of plans, specifications, documents and other information. Hard copies must be printed on substantial and durable material, or,</p> <p>b) Where, in the opinion of the Chief Building Official, a copy of the plans, specifications and applicable documents may be submitted digitally in a portable document format or equivalent.</p> |
| Status | Article | Section | Wording |
| Existing | 16(1) | CANCELLATION AND REVOCATION | An application for a Permit will remain active for a period of six (6) months from the date of receipt. After six (6) months, if the Permit is not issued, the application shall be deemed abandoned and the Director shall cancel the application and the application fee shall be forfeited. |
| Proposed | 16(1) | CANCELLATION AND REVOCATION | Revise 16(1) to delete “shall” and substitute with “may” |

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| Existing | 18 | CANCELLATION AND REVOCAATION | A Permit shall be valid for eighteen (18) months from the date the Permit was issued. |
| Proposed | 18 | CANCELLATION AND REVOCAATION | Delete |
| Status | Article | Section | Wording |
| Existing | 20.(f) | PART 6 - ENCLOSURE SPECIFICATIONS GENERAL SPECIFICATIONS | no attachment that can facilitate climbing shall be fixed or placed on the exterior face of an enclosure between 100 mm and 1042 mm, measured from the bottom of the enclosure |
| Proposed | 20.(f) | PART 6 - ENCLOSURE SPECIFICATIONS GENERAL SPECIFICATIONS | no attachment or object that can facilitate climbing shall be fixed or placed on the exterior face of an enclosure between 140 mm and 900 mm, measured from the bottom of the enclosure |
| Status | Article | Section | Wording |

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| Existing | 28.(c) | CHAIN LINK CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, which shall extend at least 1.2 metres below grade, or be constructed in such a manner as to be non-frost susceptible; and which posts shall be encased in concrete at least 50 mm thick all around; |
| Proposed | 28.(c) | CHAIN LINK CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, be structurally adequate and durable for the intended use. |
| Status | Article | Section | Wording |
| Existing | 29.(d) | VERTICAL BOARD CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground and shall extend at least 1.2 metres below grade, or be constructed in such a manner as to be non-frost susceptible; and which posts shall be encased in concrete at least 50 mm thick all around; |
| Proposed | 29.(d) | VERTICAL BOARD CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, be structurally adequate and durable for the intended use. |
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| Existing | 30 (d) | WROUGHT IRON, ALUMINUM, OR VINYL TYPE CONSTRUCTION SPECIFICATIONS | Every enclosure of wrought iron, aluminum or vinyl type construction shall: (d) have every support post extend at least 1.2 metres below grade, or be constructed in such a manner as to be non-frost |

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| | | | susceptible; and shall be encased in concrete at least 50 mm thick all around; |
| Proposed | 30 (d) | WROUGHT IRON, ALUMINUM, OR VINYL TYPE CONSTRUCTION SPECIFICATIONS | have every support post securely imbedded in the ground, be structurally adequate and durable for the intended use |
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| Proposed | 37 (a) | TEMPORARY ENCLOSURES | Every temporary enclosure shall be constructed as follows: <ol style="list-style-type: none"> 1. Be minimum 1.5m high from grade, 2. Be non-climbable from 140mm-900mm, 3. Be continuous around the pool, 4. Be structurally adequate, |

| | | | |
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| | | | <p>5. Be durable for the intended use, and,</p> <p>6. All openings be locked when the temporary enclosure is not being used for access or egress</p> |
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| Existing | 55 | Offences and Penalties | Every person who contravenes any of the provisions of this by-law is guilty of an offence. |
| Proposed | 55 | Offences and Penalties | Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the <i>Provincial Offences Act</i> , R.S.O. 1990, Chapter P.33, as amended. |