



Hamilton

Pool Enclosure By-law

(PED13126(c))

June 15, 2016

Drowning Statistics

- Drowning is the second leading cause of preventable injury and death in children under 10 in Canada
- Between 2007 and 2011, 836 drownings occurred in Ontario
- Private pools account for 10% of all drownings
- Private pools are the number one setting for drownings for children under the age of 5 and is often due to an accidental fall into the pool



Drowning Statistics

- For every child who dies from drowning, another 5 children will receive emergency care for nonfatal drowning injuries
- Research estimates that for each child brought to the emergency department for drowning-related injury, another 10 children were “near misses” (unintentionally submerged, but rescued rapidly)
- Nonfatal drowning injuries can result in permanent brain impairment leading to problems with memory, learning disabilities and other loss of functioning



Child Safety Around Pool

- Drowning in real life is very different from the way it is portrayed in movies, it is fast and silent, often with no shouting or splashing
- Most drownings occur when a child is walking or playing near the water
- Drowning can occur in as little as 20 seconds, in water that is only inches deep (Toronto Hospital for Sick Kids)
- Researchers estimate that 4 sided fencing could prevent 7 out of 10 drownings or near drownings of children under 5



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Canada Safety Council Safety Precautions to Prevent Drownings

1. Actively supervise children
2. Wear life jackets
3. Learn First Aid and CPR
4. Put your kids in swimming lessons
5. Fence off backyard pools on all four sides



Office of the Chief Coroner for Ontario



In June of 2011 the Office of the Chief Coroner for Ontario released their Drowning Review Report which made 12 recommendations in the area of public safety and drowning prevention.



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Office of the Chief Coroner for Ontario

- The first two recommendations were directed at municipalities in order to address areas of concerns, related to enclosures around swimming pools, including decorative (landscape) ponds
- These recommendations were developed following a review of all accidental drowning deaths in Ontario from May 1st to September 30th of 2010



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Recommendations of the Office of the Chief Coroner for Ontario

1. *“All municipalities in the Province of Ontario should pass pool enclosure municipal bylaws that mandate barrier safety requirements for new pools including in-ground, above-ground, portable, inflatable and hydro-massage pools, hot tubs and spas as well as decorative ponds such that when they are installed;*
 - *they are surrounded by 4-sided fencing that completely encloses the pool area;*
 - *the pool enclosure bylaw applies to all structures with a water depth of at least 0.6m (2 feet);*
 - *they allow entry and exit through a self-closing and self-latching gate only;*
 - *the 4-sided fencing be a minimum height of 1.22m (4 feet);*
 - *the bylaw specifies that fence construction should inhibit climbing;*
 - *the home should never open into a pool area.*



Recommendations of the Office of the Chief Coroner for Ontario

- 2. All municipalities in the Province of Ontario should pass pool enclosure municipal bylaws that mandate retrofitting for existing pools as defined by 2015 to the standards as in recommendation #1 above.”*

To address these two recommendations the Building Division is proposing a new Pool Enclosure By-law to replace the City’s existing Swimming Pool Enclosure By-law (By-law No. 03-125).



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McMaster University Study of Drownings in the Hamilton Area

- Study prepared by Candice Cybulskie, of the Michael G. DeGroot School of Medicine and Dr. AJ Kam from the Department of Paediatrics, McMaster University
- Drowning data was collected from three academic hospitals in Hamilton from January 1, 2004 to December 31, 2013 for children under 18



Findings of the Study from McMaster University

- Of the total 61 drowning incidents during this time period, the majority of drownings occurred in a private pool setting (44%)
- 70% of private pool drownings occurred in children between the ages of 1 to 4
- 5 of the private pool drowning incidents resulted in death
- The majority of private pool drowning incidents in Hamilton occurred when the child was unsupervised or sub-optimally supervised



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Conclusions from the Study from McMaster University

- The 1-4 age group is a vulnerable population with regard to drowning
- Private pools offer a focal point for prevention
- Findings support previous recommendations of the Office of the Chief Coroner, as 4-sided pool fencing is a passive environmental intervention that would prevent this high risk demographic from accessing the pool without supervision and prevent drownings



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Public Consultation

- Public Meetings were held on May 27, 2015 and February 10, 2016
- Generally the pool industry is opposed to the 4-sided fence requirement since they feel it would restrict the installation of pools in smaller yard
- The Pool & Hot Tub Council of Canada also made a presentation at both Public Meetings and stated that while the 4-sided fence is an option they felt that a better approach would be to increase public awareness of backyard pool safety
- Apart from the 4-sided fence issue, there were no other concerns raised regarding the rest of the proposed Pool Enclosure By-law



Public Consultation

- Staff also received numerous phone calls and e-mails, the majority of which were concerning the 4-sided fence. A couple of calls were received in support of the 4-sided fence including one from a research group at McMaster University
- Below is a representative summary of some of the comments received:

“I would suggest considering less invasive preventative measures such as patio door locks and alarms.”

“What about those who don’t have children?”

“What about education, safety training, and devoted adult supervision?”

“How about pool covers?”

Proposed Changes to the Pool Enclosure By-law

Definition of “Pool”

The definition of “pool” would now include any body of water that is capable, at any point, of holding water in excess of 0.6 metres in depth. The current By-law only regulates a body of water capable of holding water to a depth of 300 mm and more than 4,550 litres (1,000 gallons). This is in line with the recommendation of the Office of the Chief Coroner for Ontario. This will also address the concern about inflatable pools that are less than 4,550 litres, but can hold water in excess of 0.6 metres in depth.



Proposed Changes to the Pool Enclosure By-law

Landscape Pond (Ornamental or Decorative Ponds)

- The definition of “pool” would include a landscape pond if it is capable, at any point, of holding water in excess of 0.6 metres in depth
- However, a landscape pond would not require an enclosure if a grate, or similar structure, is securely installed preventing a person from descending to a depth of more than 0.6 metres



Proposed Changes to the Pool Enclosure By-law

Landscape Pond Exemptions

- A body of water used for the purposes of providing water to livestock or irrigation for crops, which are associated with and located on land being used for farming
- A body of water on land zoned as rural or agricultural and which is not capable, at any point 2.0 m from an edge, of holding water in excess of 0.6 m in depth
- A body of water that is part of a golf course
- A body of water owned by any public or governmental entity, including but not limited to an agency or authority
- A river, lake, stream or other natural body of water
- A privately-owned stormwater management facility
- A rain barrel having a height of at least 1.0 m and with no opening greater than 300 mm²



Proposed Changes to the Pool Enclosure By-law

Pool Enclosure (Fence on all four sides)

The proposed Pool Enclosure By-law would require a pool to be enclosed on all sides and would not allow openings from a building, such as doors or windows, into the pool area. The current By-law does not have this restriction. This would be in compliance with the recommendation of the Office of the Chief Coroner for Ontario that a pool be surrounded by 4-sided fencing that completely encloses the pool area and that a home should never open into a pool area. This would reduce the risk of a child being able to access a pool directly from a home.



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Proposed Changes to the Pool Enclosure By-law

Pool Enclosure (Fence on all four sides)



Proposed Changes to the Pool Enclosure By-law

Pool Enclosure (Fence on all four sides)

- The only recommendation that is not included in the proposed Pool Enclosure By-law is the second recommendation regarding retrofitting of all existing pools
- As long as an existing fence around a pool has been installed prior to the passing of the new proposed by-law, then the fence would not have to be retrofitted to meet the requirements of the new proposed Pool Enclosure By-law



Proposed Changes to the Pool Enclosure By-law

Enclosure Height and Climability

The minimum height of the enclosure would remain at 1.5 m as per the existing Swimming Pool Enclosure By-law which exceeds the minimum height of 1.22 m recommended by the Office of the Chief Coroner.



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Proposed Changes to the Pool Enclosure By-law

Hot Tubs

Under the proposed Pool Enclosure By-law hot tubs would require an enclosure if the depth of the water exceeds 0.6 m. While this requirement is the same as the existing enclosure By-law an exception has been added that an enclosure would not be required for a hot tub where the hot tub has a rigid cover that is capable of supporting 90 kg. Additionally, the owner or any other person in control of the hot tub would have to ensure that this rigid cover is securely fastened and locked to prevent access at all times when the hot tub is not in use.



Proposed Changes to the Pool Enclosure By-law

Other Changes

In addition to the above noted changes, staff are also proposing several housekeeping changes in order to update the content of the By-law and in order to clarify the intent of several sections of the Pool Enclosure By-law.



Additional Information

- Internationally, Australia, New Zealand and France have passed legislation requiring most, if not all of the elements outlined in recommendation #1 of the Office of the Chief Coroner of Ontario
- The Province of Quebec and the City of Toronto are jurisdictions in Canada who have passed four-sided pool enclosure by-laws. These laws pertain to new construction only and are not retroactive
- A 4-sided fence provides a passive barrier between the home and pool and, as research indicates, would reduce the number of deaths and drowning incidents in children under the age of five



Additional Information

Video excerpt (1minute and 10 seconds) of Dr. Lauwers, Deputy Chief Coroner, from the Office of the Chief Coroner for Ontario who was part of the Review Team for the 2011 Drowning Review Report

Link to video:

<http://www.videodelivery.gov.on.ca/player/download.php?file=http://www.media.gov.on.ca/a241ee57efd470a1/en/pages/text.html>



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Questions?



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