
TO: GENERAL COMMITTEE

SUBJECT: UPDATE TO POOL ENCLOSURE BY-LAW

WARD: ALL

PREPARED BY AND KEY CONTACT: P. EVANS, CHIEF BUILDING OFFICIAL, EXT. 5535

SUBMITTED BY: P. EVANS, CHIEF BUILDING OFFICIAL

GENERAL MANAGER / EXECUTIVE DIRECTOR APPROVAL: B. ARANIYASUNDARAN, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That By-law 94-59, as amended, being a by-law to regulate the protective enclosure of privately owned outdoor swimming pools, be repealed and replaced with the proposed Pool Enclosure By-law attached as Appendix "C" to Staff Report BLD001-24.
2. That Schedule "K" of Fees By-law 2024-024, be amended by adding the enforcement surcharges attached as Appendix "B" to Staff Report BLD001-24, effective on the date of adoption of the Pool Enclosure By-law.

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this Staff Report is to update the Pool Enclosure By-law and bring the by-law up to date with increased safety measures, current best practices and procedures.
4. A section-by-section summary of the recommended changes to the by-law has been attached as Appendix "A" for Council's ease of reference.
5. By-law 94-59, as amended was adopted by Council on April 18, 1994. By-law 97-32 was adopted by Council on February 10, 1997. At the time, building permit applications were accepted in the Building Department by submitting hard copy plans, drawings etc. Since 2020, all pool enclosure permit applications have been submitted electronically through the City's on-line portal, APLI. The digitization of the application processes has allowed the department to streamline processes, improve productivity and allow for quicker turn-around times for permit issuance.
6. Review of pool enclosure by-laws and guides from comparable municipalities including, but not limited to, Brampton, Kingston, Oakville, Ottawa, Waterloo, Kitchener, Mississauga, Niagara-On-The-Lake and Waterloo were utilized throughout the development of the proposed changes to this by-law.
7. Amendments of note include:

* Requirements for submission of applications through the City of Barrie on-line portal (APLI).

- * The addition of provisions for properties located adjacent to public bodies of water.
 - * Reduced size of openings in certain types of fencing to increase safety and prevent climbability.
 - * Clarify requirements for above ground pools, gates and existing pool enclosures.
 - * Clarification of penalties for non-compliance.
8. Section 10 of the *Municipal Act*, 2001, authorizes a municipality to pass By-laws respecting fences.
 9. Section 10 of the *Municipal Act*, 2001, authorizes a municipality to regulate matters related to health, safety and well-being of persons.
 10. Section 391 of the *Municipal Act*, 2001, authorizes a municipality to impose fees or charges on persons for services provided.

ANALYSIS

11. This by-law should be amended and modernized to ensure safety concerns and clarification of requirements for pool enclosures are addressed.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

12. There are no environmental and/or climate change impact matters related to the recommendation.

ALTERNATIVES

13. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could maintain the existing By-laws 94-59 and 97-32 with respect to the Pool Enclosure By-law.

This alternative is not recommended as it would not allow for the recommended changes such as submission of digitized files and upgraded safety provisions as well as alignment with other best practices.

Alternative #2

General Committee could alter the proposed recommendation.

Although this alternative is available, it is not recommended as staff have reviewed the current provisions and aligned them with other municipalities' best practices. A review of standards and other policies and procedures has allowed staff to draft the proposed by-law with pertinent changes.

FINANCIAL

14. There are no financial implications for the Corporation resulting from the proposed recommendation.

LINKAGE TO 2022-2026 STRATEGIC PLAN

15. The recommendations included in this Staff Report support the following goals identified in the 2022-2026 Strategic Plan:

- ☒ Community Safety
- ☒ Responsible Governance

APPENDIX "A"

Pool Enclosure By-law Table of Proposed Changes

Additions are shown in **red text**; Deletions are shown with ~~strikeout in blue text~~

2. Definitions				
Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
	New definition: "Agent"		"Agent" means a person duly authorized by the Owner in writing to act for or represent the Owner of a property on which a pool is being constructed or is located and contractor or trustee shall mean the same.	An agent is authorized by the owner to act as the applicant on their behalf.
	Amendment to existing definition.	"Authority having jurisdiction" means the Chief Building Official and any Building Inspector or Property Standards Officer authorized by the Chief Building Official to administer this by-law.	"Authority having jurisdiction" means the Chief Building Official and any Building Inspector or Property Standards Officer authorized by the Chief Building Official to administer this by-law.	Pool enclosure enforcement is the responsibility of Building Services. Property Standards Officers are staff members with Enforcement Services (property standards).
	Amendment to existing definition.	"Building Inspector" means an inspector appointed by the Council of the Corporation to inspect buildings and structures pursuant to the Building Code Act.	"Building Inspector" means an inspector appointed by the Chief Building Official Council of the Corporation to inspect buildings and structures pursuant to the Building Code Act and Designate shall mean the same.	The CBO has delegated authority to appoint inspectors.
	Amendment to existing definition.	"Chief Building Official" means the person appointed by the Council of the Corporation to administer the Building Code pursuant to the Building Code Act.	"Chief Building Official" or " CBO " means the person appointed by the Council of the City to administer the Building Code pursuant to the Building Code Act.	Housekeeping amendment.
	Amendment to existing definition.	"Corporation" means the Corporation of the City of Barrie.	" City " means the Corporation of the City of Barrie.	Housekeeping amendment.
	Amendment to existing definition.	"Enclosure" means a fence, wall or other structure or thing, including gates and doors, which surrounds the perimeter of a pool which	"Enclosure" means a fence, wall or other structure or thing, including gates and doors, which surrounds the perimeter of a pool which would discourage the	Clarification of materials which may be used for enclosure.



		would discourage the entry of a person into the enclosed area.	entry of a person into the enclosed area but shall not include vegetation, trees and/or hedges or the like.	
	New definition: "Gate"		"Gate" means a barrier swinging on the vertical axis used as a means to gain access to the enclosed area.	Definition added for clarification.
	New definition: "Finished Grade"		"Finished Grade" means the highest level of the ground within 1.22m (4'-0") measured horizontally from the outer-most surface of the enclosure or structural support of the pool. "Ground Level" and "Finished Ground Level" and any other similar reference shall mean the same.	Clarification of where height of enclosure is to be measured from
	New definition: "Owner"		"Owner" means a lawful owner of the property upon which the pool enclosure is proposed.	Definition added for clarification.
	New definition: "Permit"		"Permit" means a permit issued under this By-law. "Pool Enclosure Permit" shall mean the same.	Definition added for clarification.
	New definition: "Person"		"Person" means a natural person, firm, partnership, corporation or association and includes the Owner.	Definition added for clarification.
	Amendments to existing definition.	"Pool" means a privately-owned outdoor body of water,	"Pool" or "Swimming Pool" means a privately-owned outdoor body of water,	Clarification of definition
		(a) contained in a container that is,	(a) contained in a container that is,	
		(i) artificial, manufactured or assembled;	(i) artificial, manufactured or assembled;	
		(ii) capable of retaining water measuring more than 460mm (18.1 inches) in depth at any point, and	(ii) capable of retaining water measuring more than 600mm (23 5/8 inches) in depth at any point, and	Depth changed to align with most other Municipalities
		(iii) capable of being used for swimming, bathing, diving or wading,	(iii) capable of being used for swimming, bathing, diving or wading,	
		(b) and includes,	(b) and includes,	
		(i) manufactured swimming pools, both above-ground and in-ground;	(i) manufactured swimming pools, both above-ground and in-ground;	
		(ii) custom built pools; and	(ii) custom built pools;	

			(iv) outdoor pools used for display or commercial purpose; and	
			(v) temporary pools shall mean an inflatable pool or other pool which is designed to be removed periodically on a seasonal or more frequent temporary basis.	
		(c) but does not include,	(c) but does not include,	
		(i) irrigation ponds on farms used for watering livestock or for irrigation;	(i) irrigation ponds on farms used for watering livestock or for irrigation;	
		(ii) naturally formed depressions in the ground surfaces;	(ii) naturally formed depressions in the ground surfaces;	Remove redundancy
		(iii) garden or fish ponds used as landscaping features with plant materials grown in and around the pond; and	(iii) garden or fish ponds used as landscaping features with plant materials grown in and around the pond; and	
		(iv) public swimming pools as defined and regulated by the Ontario Building Code.	(iv) public swimming pools as defined and regulated by the Ontario Building Code.	
	New definition: "Spa"	(iii) hot tubs and spas,	"Spa" means (iii) hot tubs, spas, whirlpools, swim spas and hydro massage pools and other similar spas.	Clarify definition of spas and hot tubs.
	Definition deleted.	"Property Standards Officer" means an inspector appointed by the Council of the Corporation assigned the duties of enforcing the Corporation's Minimum Property Maintenance and Occupancy Standards By-law.	"Property Standards Officer" means an inspector appointed by the Council of the Corporation assigned the duties of enforcing the Corporation's Minimum Property Maintenance and Occupancy Standards By-law.	Pool enclosure permitting is the responsibility of Building Services. Property Standards Officers are staff members with Enforcement Services (property standards).

3. Administration and Enforcement

Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
3.(1)	No change	The Chief Building Official shall be responsible for the administration and enforcement of this by-law.		

3.(2)	New paragraph		This by-law shall apply to all private pools and pool enclosures not subject to the requirements of the Building Code Act and the Ontario Building Code, Division A, Part 1 Designated Structures; a) Sentence 1.3.1.1.(1)(i) outdoor pool, and b) Sentence 1.3.1.1.(1)(ii) outdoor public spa	Clarification to address when this by-law is enforced instead of the Ontario Building Code requirements for public pools and spas.
3.(3)	New paragraphs		Conflict With Other By-laws (a) Where there is a conflict between this by-law and any other By-law in the City of Barrie regarding the rigidity, climbability and/or height of fences, the provision of this By-law shall prevail. (b) No conflict exists between the provisions of this By-law and the provision of any other by-law, approval and/or permit if it is possible to comply with both by-laws dependant on the proposed type, design or location of the pool enclosure, pool and/or spa.	Clarification to address if/when this by-law is in conflict with other City of Barrie by-laws.

4. Pool Enclosure Permit				
Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
4.(1)	No change	No person shall excavate for, erect or install a pool, or cause the excavation for, erection of or installation of a pool unless a permit for the pool enclosure has been issued by the Chief Building Official.		
4.(2)	Amendment to paragraph.	To obtain a pool enclosure permit, an applicant shall file an application in writing on forms prescribed by and available from the Chief Building Official, and shall supply any other information relating to the application as required by the Chief Building Official.	To obtain a pool enclosure permit, an applicant shall file an application in writing on forms prescribed by and available from the Chief Building Official apply through the City's online portal (APLI) and shall supply any other information relating to the application as required by the Chief Building Official.	All applications are now submitted in digital format through the APLI system.
4.(3)		Every pool enclosure permit application shall:		

	No change	(a) describe the land on which the work is to be done, by a description that will readily identify and locate the site on which the pool will exist;		
	No change	(b) be accompanied by plans, sketches and specifications about the pool enclosure as described in this by-law;		
	No change	(c) be accompanied by the required fees as determined in accordance with Schedule "A";		
	Amendment to paragraph.	(d) state the names, addresses and telephone numbers of the owner, applicant and the constructor;	(d) state the names, address, es and telephone numbers, and email address of the owner, applicant. and the constructor;	Online requires applicant info only.
	Amendment to paragraph.	(e) be signed by the applicant who shall certify as to the truth of the contents of the application.	(e) be signed digitally acknowledged online by the applicant who shall certify as to the truth of the contents of the application.	Digital acknowledgement required.
4.(4)	No change	The Chief Building Official shall, where the conditions in Subsection 4.(3) above have been fulfilled, issue a pool enclosure permit to the applicant unless,		
	No change	(a) the proposed pool or pool enclosure will contravene this by-law or any other applicable law;		
	No change	(b) the application for it is incomplete; or		
	No change	(c) any fees due are unpaid.		
4.(5)	Paragraph rewritten	Where an application for a permit remains incomplete or inactive for 30 days after it is made, the application may be deemed by the Chief Building Official to have been abandoned, without further notice to the applicant.	An incomplete application or an application awaiting revisions may be deemed to be abandoned and will be cancelled if the applicant has not made satisfactory progress within 30 days of being notified by the Chief Building Official or designate. Where an application for a permit remains incomplete or inactive for 30 days after it is made, the application may be deemed by the Chief	This will permit the applicant additional time for completing the application process.

			Building Official to have been abandoned, without further notice to the applicant.	
	New paragraph		Where the subject property is located in an unassumed subdivision, final lot grading certification or written approval from the developer is required prior to permit issuance.	To address proposed construction of pools in unassumed subdivisions where the builder is still responsible for the finished grading of each lot.
	New paragraph		A pool enclosure permit is not required for a swimming pool which has been dismantled or deflated and is being reconstructed, placed, or erected in the exact location in which it was previously constructed, erected or placed provided that a pool enclosure permit was obtained for the original installation, and the required swimming pool enclosure remains in compliance with this By-Law.	To address pools that are proposed to be reconstructed, repaired or replaced where a property owner has previously obtained a permit.

5. Plans and Specifications				
Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
		Every applicant shall furnish,		
5.(1)	Amendment to paragraph.	(a) sufficient plans, specifications, documents and other information to enable the Chief Building Official to determine whether the proposed pool enclosure conforms to this by-law and any other applicable laws;	(a) sufficient plans, specifications, documents and other information to enable the Chief Building Official or designate to determine whether the proposed pool enclosure conforms to this by-law and any other applicable laws;	The determination of adequate documents may be delegated to staff.
	Amendment to paragraph.	(b) a site plan referenced to a current plan of survey certified by a registered Ontario Land Surveyor and a copy of such a survey shall be filed with the municipality unless this requirement is waived because the Chief Building Official is able, without having a current plan of survey, to determine whether the proposed pool and pool enclosure conforms to this by-law and any other applicable laws. The site plan shall include,	(b) a site plan referenced to a current plan of survey certified by a registered Ontario Land Surveyor and a copy of such a survey shall be filed with the municipality unless this requirement is waived because the Chief Building Official or designate is able, without having a current plan of survey, to determine whether the proposed pool and pool enclosure conforms to this by-law and any other applicable laws. The site plan shall include,	The determination of a sufficient site plan may be delegated to staff.



	No change	(i) lot size and dimensions of the property;		
	No change	(ii) setbacks of the pool and pool enclosure from existing and proposed buildings and property lines;		
	No change	(iii) existing and finished ground levels or grades, and		
	No change	(iv) existing rights of way, easements and municipal services.		
5.(2)	Amendment to paragraph.	Plans submitted shall be legible and be drawn to scale upon paper or other suitable and durable material to the satisfaction of the Chief Building Official.	Plans submitted shall be legible and be drawn to scale upon paper or other suitable and durable material to the satisfaction of the Chief Building Official or designate .	Drawings submitted digitally through the on-line APLI system. The determination of adequate drawings may be delegated to staff.
5.(3)	No change	Plans and specifications furnished according to this by-law become the property of the municipality and will be disposed of or retained in accordance with relevant legislation.		

6. Fees

Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
6.(1)	Amendment to paragraph.	The Chief Building Official shall determine the required fees calculated in accordance with Schedule "A" for the proposed pool enclosure and the applicant shall pay such fees at the time of making an application.	The CBO Chief Building Official shall determine the required fees for the work proposed calculated in accordance with the City of Barrie Fees and Charges By-law, Schedule K as amended Schedule "A" for the proposed pool enclosure and the applicant shall pay such fees, in addition to any other fees applicable through other by-laws, regulations and legislation. at the time of making an application.	Application fees to be moved to the City's Fees By-law, Schedule K (Building Services).
6.(2)	Section deleted	Upon written request, the Chief Building Official shall determine the amount of fees, if any, that may be refunded in accordance with Schedule "A" in the case of, (a) withdrawal of an application,	Upon written request, the Chief Building Official shall determine the amount of fees, if any, that may be refunded in accordance with Schedule "A" in the case of, (a) withdrawal of an application,	



		(b) abandonment of an application, (c) denial of a permit, or (d) revoking of a permit.	(b) abandonment of an application, (c) denial of a permit, or (d) revoking of a permit.	
6.2	New paragraph		Upon receipt of a written request from the applicant to withdraw an application for a pool enclosure permit, a refund of 50% shall be provided.	Clarification of refund where an application is cancelled. Refund amount reduced in order to cover staff time.
6.3	New paragraph		The CBO shall refund 50% of the permit application fee where the application has been deemed abandoned is being cancelled.	Clarification of refund process.
6.4	New paragraph		The CBO shall refund 35% of the permit fee where the permit is being cancelled or has been revoked, and no inspections have been performed.	Clarification of refund process.

7. Pool Enclosure Compliance				
Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
7.(1)	No change	No person shall erect or install or cause to be erected or installed any pool enclosure except in accordance with this by-law.		
7.(2)	No change	No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the Chief Building Official.		
7.(3)	No change	No person shall erect or install or cause to be erected or installed any pool enclosure except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued and any changes to them authorized by the Chief Building Official.		



7.(4)	Amendment to paragraph.	No person shall place water or allow water to be placed in any pool to a depth of more than 460mm unless the pool is safely enclosed by a pool enclosure that complies with the standards set out in this by-law.	No person shall place water or allow water to be placed in any pool to a depth of more than 600mm (23 5/8 inches) 460mm unless the pool is safely enclosed by a pool enclosure that complies with the standards set out in this by-law.	Depth changed to align with most other Municipalities
7.(5)	Amendment to paragraph.	Every pool shall continue to be enclosed by a pool enclosure that complies with the standards set out in this by-law so long as water remains, or is capable of remaining in the pool to a depth of more than 460mm.	Every pool shall continue to be enclosed by a pool enclosure that complies with the standards set out in this by-law so long as water remains, or is capable of remaining in the pool to a depth of more than 600mm (23 5/8 inches) 460mm .	Depth changed to align with most other Municipalities
	New paragraph		Where a pool is installed on property that abuts Lake Simcoe, or any associated bay, or any public body of water, such property need not be enclosed along the water side provided that land is private and access cannot be gained from any point and the remaining lands surrounding the swimming pool are enclosed in accordance with the requirements of this by-law. Enclosures adjacent to water side to extend to waters edge. During winter months and/or where adjacent body of water is frozen, said pool shall be securely covered or enclosed and/or drained of water to a depth of no more than 600mm (23 5/8 inches).	Added to address properties that are adjacent to bodies of water.

8. Pool Enclosure Standards

Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
8.(1)	No change	Every pool enclosure shall be designed, constructed and maintained so as to discourage the entry of small children into the pool area.		
8.(2)	Amendment to paragraph.	The following standards are deemed by the Corporation to satisfy the intent of Article 8.(1) above.	ENCLOSURE PROVISIONS	Title added.

			The following standards are deemed by the City Corporation to satisfy the intent of Article 8.(1) above .	
Amendment to paragraph.	(a) HEIGHT: Every pool enclosure shall be not less than 1.2 metres (47.23 inches) in height measured from the finished grade and any climbable fixture or feature on the exterior side of the pool enclosure, to the top of the pool enclosure, as determined at the time of the initial pool enclosure approval.	(a) HEIGHT: Every pool enclosure shall be not less than 1.22 metres (4'-0") (47.23 inches) in height measured from the finished grade or and any climbable structure , fixture or feature on the exterior side of the pool enclosure., as determined at the time of the initial pool enclosure approval.	Clarification and simplification of description for the height of enclosure.	
No change	(b) RIGIDITY: Every pool enclosure shall be constructed and maintained to be rigid and secure, able to resist any reasonable lateral forces that may be applied to the enclosure material within its minimum required height.			
Amendment to paragraph.	(c) OPENINGS: No openings, spaces or gaps in the enclosure material shall allow the passage of a spherical object having a diameter of 100 mm (3.94 inches) within the enclosure's minimum required height.	(c) OPENINGS Except as required for lattice and chain link fences, no No openings, spaces or gaps in the enclosure material shall allow the passage of a spherical object having a diameter of 102mm (4") 400 mm (3.94 inches) within the enclosure's minimum required height.	Clarification of dimensions.	
Amendment to paragraph.	(d) NON-CLIMBABLE: Within the enclosure's minimum required height, no horizontal or diagonal components shall be located so as to facilitate the climbing of the enclosure. Horizontal or diagonal members shall be spaced not less than 900mm (35.42 inches) measured between the top edge of adjacent members.	(d) NON-CLIMBABLE: Within the enclosure's minimum required height, no horizontal or diagonal components on the exterior side of the pool enclosure shall be located so as to facilitate the climbing of the enclosure. Horizontal or diagonal members shall be spaced not less than 900mm (35.42 inches) measured between the top edge of adjacent members. tight-fitting with no spaces between the components.	Design and construction shall prevent climbing on the outside of the pool enclosure.	
Amendment to paragraph.	(a) BOARD FENCES	BOARD FENCES	Clarification of dimensions.	

		All board material shall be of minimum 19mm thickness (1 inch nominal thickness). All horizontal support rails shall be of minimum 39mm x 89mm (nominal 2" x 4") material. All support posts shall be of minimum 89mm x 89mm (nominal 4" x 4") material spaced not more than 2.5m (8.2 feet) apart.	All board material shall be of minimum 19mm thickness (1 inch nominal thickness). All horizontal support rails shall be of minimum 39mm x 89mm (nominal 2x4 2" x 4") material. All support posts shall be of minimum 89mm x 89mm (nominal 4x4 4" x 4") material spaced not more than 2.4 2.5 metres (8 feet) (8.20 ft.) apart.	
	Amendment to paragraph.	(b) LATTICE FENCES The openings of any lattice material shall be not greater than 51mm x 51mm (2" x 2") in size. All lattice material shall be laterally supported at all edges and at horizontal and vertical spacing of not more than 1.2 metres (3.94 ft).	LATTICE FENCES The openings of any lattice material shall be not greater than 38mm x 38mm (1.5 inches x 1.5 inches) 51mm x 51mm (2 inch x 2 inch) in size. All lattice material shall be laterally supported at all edges and at horizontal and vertical spacing of not more than 1.22 metres (4'-0") (3.94 ft).	Clarification of dimensions. Opening sizes reduced for increased safety (prevent climbing) and to align with most other Municipalities.
	Amendment to paragraph.	(c) CHAIN LINK FENCES All chain link fences, posts and rails shall be of galvanized or vinyl coated material. All chain link mesh material shall be a minimum of No. 14 gauge wire. The openings of any chain link fencing material shall be not greater than 51mm x 51mm (2 inch x 2 inch) in size. The chain link mesh material shall be supported at the top and bottom by an approved reinforcing cable or a rail. Every chain link pool enclosure shall be supported by posts that are not less than 38mm (1.5 inches) in diameter, spaced not more than 2.5 metres (8.20 ft.) apart.	CHAIN LINK FENCES All chain link fences, posts and rails shall be of galvanized or vinyl coated material. (h) All chain link mesh material shall be a minimum of No. 14 gauge wire. (i) The openings of any chain link fencing material shall be not greater than 38mm x 38mm (1.5 inches x 1.5 inches) 51mm x 51mm (2 inch x 2 inch) in size. (j) The chain link mesh material shall be supported at the top and bottom by an approved reinforcing cable or a rail. (k) Every chain link pool enclosure shall be supported by posts that are not less than 38mm (1.5 inches) in diameter, spaced not more than 2.4 2.5 metres (8 feet) (8.20 ft.) apart.	Clarification of dimensions. Opening sizes reduced for increased safety (prevent climbing) and to align with most other Municipalities.
8.(3)	Amendment to paragraph.	(e) GATES AND DOORS: All gates and doors of the pool enclosure other than from the property's dwelling unit, shall be kept in a closed, secure and latched position whenever the pool area is unattended by a supervisory	GATES AND DOORS (a) SINGLE GATES: All gates and doors of the pool enclosure other than from the property's dwelling unit, shall be kept in a closed, secure and latched position at all times. whenever the pool area is	Design and construction of gates and doors to (safely) prevent avoidable entry into pool enclosure.

		adult. All gates shall be of equivalent construction and height as the minimum requirements of the pool enclosure and shall be supported on substantial hinges.	unattended by a supervisory adult. All gates shall be of equivalent construction and height as the minimum requirements of the pool enclosure and shall be supported on substantial hinges. Gates and doors shall be equipped with lockable, self closing hinges and self latching hardware.	
	New paragraph		(b) DOUBLE GATES: Double gates used in a pool enclosure shall have one of the two gates equipped with lockable, self closing hinges and self latching hardware. The other gate shall be equipped with a securing device permanently affixed to the ground or other non-moveable object, which will prevent access through this gate without lifting or removing this device and then releasing the hatch. This gate must be kept in a closed, secure and latched position at all times.	Requirements for double gates if proposed in design.
8.(3)	Paragraph deleted	Without limiting the generality of the above noted principles, the following situations shall be further regulated within the minimum required height of the enclosure as follows.	Without limiting the generality of the above noted principles, the following situations shall be further regulated within the minimum required height of the enclosure as follows.	Redundant paragraph. Information covered elsewhere.
	Amendment to paragraph.	(a) ABOVE GROUND POOLS Only the ladders or stairs providing access to an above ground pool need be enclosed in accordance with this by-law provided the following conditions are maintained:	(a) ABOVE GROUND POOLS (a) Only the ladders or stairs providing access to an above ground pool need be enclosed in accordance with this by-law provided the following conditions are maintained:	Change numbering format.
8.(4)	Amendment to paragraph.	i) The sides of an above ground pool shall be not less than 1.2 metres (3.94 ft.) in height measured from the finished grade and any climbable fixture or feature on the exterior face of the pool wall to the top rail of the pool wall, as determined at the time of the initial pool enclosure approval.	(b) ↗ The sides of an above ground pool shall be not less than 1.22 metres (4 feet) (3.94 ft.) in height measured from the finished grade and any climbable fixture or feature on the exterior face of the pool wall to the top rail of the pool wall, as determined at the time of the initial pool enclosure approval.	Clarification of dimensions.

	Amendment to paragraph.	ii) Pumps, air conditioners, heaters, filters or other appliances or equipment shall be located not less than 1.2 metres (3.94 ft.) from the top rail of the pool walls or shall be enclosed in accordance with this by-law.	(c) ii) Pumps, air conditioners, heaters, filters or other appliances or equipment shall be located not less than 1.22 metres (4 feet) (3.94 ft.) from the top rail of the pool walls or shall be enclosed in accordance with this by-law.	Clarification of dimensions.
	New paragraph		(d) Above ground pools shall be surrounded by a platform or deck that is not less than 610mm (24 inches) clear width and access to the platform or deck must be restricted by means of a gate in accordance with of this By-law.	Prescribed minimum size of platform around pool to ensure adequate safety.
	New paragraph		(e) Above ground pools that are surrounded by a platform or deck shall be provided with a guard that is not less than 915mm (3 feet) in height measured from the platform or deck. i) Openings through guards shall be of a size that prevents the passage of a spherical object having a diameter of 102mm (4"). ii) Guards shall be designed so that no member, attachment or opening above the platform or deck will facilitate climbing.	Clarification of guard surrounding above ground pool decks.
	New paragraph		(f) Above ground pools that are provided with a removeable ladder must either: i. Remove the ladder when the pool is not in use and stored in a secure location not less than 1.22 metres (4 feet) from the side of the pool walls, or, ii. The removable pool ladder shall be enclosed in accordance with this by-law and shall be equipped with a gate in accordance with this By-law.	Clarification where use of removeable ladders.
8.(5)	Amendment to paragraph	(e) SPAS Outdoor spas need not be enclosed by a pool enclosure provided they are enclosed by a	SPAS (a) Outdoor spas need not be enclosed by a pool enclosure provided they are enclosed by a solid,	Clarification of design of covers to (safely) prevent avoidable entry into spas.

		solid, locked cover that is secured over the entire water surface when the area surrounding the spa is unattended by a supervisory adult.	locked cover capable of holding not less than 91 kg (200 lbs) that is secured over the entire water surface when not in use . the area surrounding the spa is unattended by a supervisory adult.	
8.(6)	Amendment to paragraph	(f) OTHER MATERIALS Other fencing materials may be approved by the Chief Building Official where it can be demonstrated that the material will perform with an equivalent degree of safety as outlined in Section 8 (2) of this by-law.	(f) OTHER MATERIALS (a) Other fencing materials may be approved by the Chief Building Official where it can be demonstrated that the material will perform with an equivalent degree of safety as outlined in Section 8 (2) of this by-law.	Simplification of paragraph.
8.(7)	No change to paragraph	PROHIBITED MATERIALS No barbed wire or anything having similar dangerous characteristics are permitted as a component of a pool enclosure. No electrical current is permitted to be connected to or conducted through any part of a pool enclosure.	PROHIBITED MATERIALS (a) No barbed wire or anything having similar dangerous characteristics are permitted as a component of a pool enclosure. (b) No electrical current is permitted to be connected to or conducted through any part of a pool enclosure.	Change numbering format.
8.(8)	Amendment to paragraph	TEMPORARY FENCING For a period of not more than two weeks, sections of a pool enclosure can be replaced with temporary fencing material such as plastic mesh to facilitate maintenance or access to the pool area, provided the temporary fence material is; at least 1.2 metres (3.94 ft.) in height securely supported by posts spaced not more than 2.0 metres (6.56 ft.) apart, and securely fastened to the remaining sections of the pool enclosure.	TEMPORARY FENCING (a) For a period of not more than two weeks, sections of a permitted pool enclosure can be replaced with temporary fencing material such as plastic mesh to facilitate maintenance or access to the pool area, provided the temporary fence material; is; i) is at least 1.22 metres (4 feet) (3.94 ft.) in height securely supported by posts spaced not more than 1.8m (6 feet) 2.0 metres (6.56 ft.) apart, and ii) is securely fastened to the remaining sections of the pool enclosure. iii) has openings that are not greater than 38mm x 38mm (1.5 inches x 1.5 inches) in size.	Clarification of temporary fencing permitted during maintenance and/or access of a pool that contains water.



8.(9)	New paragraphs		<p>EXISTING POOL ENCLOSURES</p> <p>(a) The provisions of this by-law shall not prevent the use of an existing pool and/or pool enclosure if that pool enclosure was constructed prior to the effective date of this by-law in accordance with the regulations of By-law 94-59, or any predecessor to that by-law and has been maintained continuously in accordance with those regulations.</p> <p>b) At such time as an existing pool enclosure is replaced or proposed to be altered in whole or in part, a permit is required for the replacement or alteration of the pool enclosure and shall be constructed in accordance with this by-law.</p> <p>c) Where an existing pool enclosure has enclosed a pool in accordance with the regulations that existed prior to the effective date of this by-law, and has been maintained continuously in accordance with those regulations, and that pool enclosure also marks the boundary between abutting properties, the shared portion of the pool enclosure between the abutting properties may form part of a new pool enclosure for a pool on the abutting property which shall be deemed to be in conformity with this by-law. All other portions of the new pool enclosure that enclose the newly constructed pool shall meet the standards set out in this by-law.</p> <p>d) A permitted pool enclosure constructed in accordance with this by-law shall be maintained in good condition at all times.</p>	Addresses existing pool enclosures that may not comply with newer provisions.

9. Penalties

Item	Modification	Existing Clause	Proposed Clause	Revision Explanation
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9.(1)	Amendment to paragraph	Any person who contravenes any provision of this by-law is guilty of an offence.	Any person who contravenes any provision of this by-law is guilty of an offence and is liable to the penalties as prescribed in Schedule "B" .	Clarification of monetary penalties for non-compliance of this by-law.
9.(2)	Paragraph deleted	A person who is convicted of an offence is liable to a \$5,000 fine as set out in the Provincial Offences Act and in By-law 90-268	A person who is convicted of an offence is liable to a \$5,000 fine as set out in the Provincial Offences Act and in By-law 90-268	Surcharges added for construction without benefit of a permit to Schedule K to avoid the necessity of going to court for each violation.
9.2	New paragraph		Where any person contravenes any provision of this by-law, a Notice of Violation will be issued to the person named in the notice requiring compliance within the timeframe specified in the notice.	Notice of violation will be issued for non-compliance of this by-law.
9.3	New paragraph		A Notice of Violation may be registered against the land to which it applies, and the City is entitled to enforce its provisions against the owner and any person acquiring any interest in the land subsequent to the registration of the Notice of Violation.	Notices MAY be registered on title of the property where owner is non-compliant.
9.4	New paragraph		Where an Notice of Violation has been issued by the City and compliance has not been achieved within the required time period as set out in the Notice of Violation the City may, through its employees and agents or persons acting on its behalf, enter upon the land to carry out the necessary measures to comply with the Notice of Violation or to drain, fill in or fence the pool at the expense of the person and any and all expenses incurred may be added to the tax roll of the subject property and collected from the owner of the subject property in the same manner as municipal taxes, or in any other manner available to the City, including by action.	Where non-compliance becomes an issue, this paragraph explains that the City may make the site safe and add the expense to the tax roll.
9.5	New paragraph		Every person who contravenes any provisions of this by-law is guilty of an offence and is liable to the penalties as prescribed in City of Barrie Fees and Charges By-law, Schedule K as amended.	Surcharges added for construction without benefit of a permit.



9.6	New paragraph		The CBO shall determine the required surcharges fees for enforcement services in accordance with the City of Barrie Fees and Charges By-law, Schedule K as amended and the applicant shall pay such fees, in addition to any other fees applicable through other by-laws, regulations and legislation.	Surcharges added for construction without benefit of a permit.
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Policy & Procedure for Pool Fence Enclosures

This section will not be part of the proposed By-law.
Procedures for execution of the application process will be covered with standard practices and standard operating procedures as necessary.

Schedule "A"

1. Fees
All items moved to Section 6, FEES and REFUNDS
2. Permit Fee Refunds
All items moved to Section 6, FEES and REFUNDS

Schedule "B"

1. Set Fine Schedule
All items moved to Section 9, PENALTIES



APPENDIX "B"

Addition of Enforcement Surcharges to Fees By-law, Schedule 'K'

2.1 Surcharge: Construct, excavate for, erect, or install a pool, or cause the excavation for, erection of or installation of a pool enclosure prior to issuance of a permit in contravention of Pool Enclosure By-law.	\$350.00
2.2 Surcharge: Repair or alteration to an existing pool enclosure without the benefit of a permit in contravention of the Pool Enclosure By-law.	\$350.00
2.3 Surcharge: Failure to maintain a permitted pool enclosure in contravention of the Pool Enclosure By-Law.	\$350.00
2.4 Surcharge: Failure to comply with a Notice of Violation within prescribed timeline.	\$350.00
2.5 Surcharge: Subsequent Notice of Violation (each).	\$350.00

APPENDIX "C"

BY-LAW NUMBER 2024-XXXX



BY-LAW NUMBER 2024-____

A By-law of the Corporation of the City of Barrie to regulate the protective enclosure of privately owned outdoor swimming pools and to repeal and replace By-law 94-59 as amended.

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25 ("The Municipal Act, 2001") provides a municipality with the broad authority to pass by-laws necessary or desirable for municipal purposes;

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 purposes of exercising its authority under this or any other Act;

AND WHEREAS Subsection 10 (2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

AND WHEREAS Subsection 11 (2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS Section 425 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes the Corporation of the City of Barrie to pass by-laws providing that a person who contravenes a by-law of the Corporation of the City of Barrie passed under that Act is guilty of an offence;

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes Council to pass a by-law enabling the municipality to do such matter or thing at the person's expense when that person fails to do what they are required or directed to do by by-law or otherwise, and to recover the costs of such action from the person by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS, by resolution 2024-G- , the Council of The Corporation of the City of Barrie deems it expedient to amend replace the by-law to regulate the protective enclosure of privately owned outdoor swimming pools.

NOW THEREFORE, the Council of the Corporation of the City of Barrie enacts as follows:

1. **SHORT TITLE**

This By-law may be cited as the "Pool Enclosure By-law".

2. **DEFINITIONS**

In this By-law:

- 2.1 "Agent" means a person duly authorized by the Owner in writing to act for or represent the Owner of a property on which a pool is being constructed or is located and contractor or trustee shall mean the same.
- 2.2 "Authority having jurisdiction" means the Chief Building Official and any Building Inspector authorized by the Chief Building Official to administer this by-law.
- 2.3 "Building Inspector" means an inspector appointed by the Chief Building Official to inspect buildings and structures pursuant to the Building Code Act and Designate shall mean the same.
- 2.4 "Chief Building Official" or "CBO" means the person appointed by the Council of the City to administer the Building Code pursuant to the Building Code Act.
- 2.5 "City" means the Corporation of the City of Barrie.
- 2.6 "Enclosure" means a fence, wall or other structure or thing, including gates and doors, which surrounds the perimeter of a pool which would discourage the entry of a person into the enclosed area but shall not include vegetation, trees and/or hedges or the like.
- 2.7 "Gate" means a barrier swinging on the vertical axis used as a means to gain access to the enclosed area.
- 2.8 "Finished Grade" means the highest level of the ground within 1.22m (4'-0") measured horizontally from the outer-most surface of the enclosure or structural support of the pool. "Ground Level" and "Finished Ground Level" and any other similar reference shall mean the same.
- 2.9 "Owner" means a lawful owner of the property upon which the pool enclosure is proposed.
- 2.10 "Permit" means a permit issued under this By-law. "Pool Enclosure Permit" shall mean the same.
- 2.11 "Person" means a natural person, firm, partnership, corporation or association and includes the Owner.
- 2.12 "Pool" or "Swimming Pool" means a privately-owned outdoor body of water,
 - (a) contained in a container that is:
 - (i) artificial, manufactured or assembled;
 - (ii) capable of retaining water measuring more than 600mm (23 5/8 inches) in depth at any point, and
 - (iii) capable of being used for swimming, bathing, diving or wading,

- (b) and includes:
- (i) manufactured swimming pools, both above-ground and in-ground;
 - (ii) custom built pools;
 - (iii) outdoor pools used for display or commercial purpose; and
 - (iv) temporary pools shall mean an inflatable pool or other pool which is designer to be removed periodically on a seasonal or more frequent temporary basis.
- (c) but does not include:
- (i) irrigation ponds on farms used for watering livestock or for irrigation;
 - (ii) naturally formed depressions in the ground;
 - (iii) garden or fish ponds used as landscaping features with plant materials grown in and around the pond; and
 - (iv) public swimming pools as defined and regulated by the Ontario Building Code.

2.13 "Spa" means hot tubs, spas, whirlpools, swim spas and hydro message pools and other similar spas.

3. ADMINISTRATION AND ENFORCEMENT

- 3.1 The Chief Building Official shall be responsible for the administration and enforcement of this by-law.
- 3.2 This by-law shall apply to all private pools and pool enclosures not subject to the requirements of the Building Code Act and the Ontario Building Code, Division A, Part 1 Designated Structures:
- a) Sentence 1.3.1.1.(1)(i) outdoor pool, and
 - b) Sentence 1.3.1.1.(1)(ii) outdoor public spa
- 3.3 Conflict With Other By-laws
- (a) Where there is a conflict between this by-law and any other By-law in the City of Barrie regarding the rigidity, climbability and/or height of fences, the provision of this By-law shall prevail.
 - (b) No conflict exists between the provisions of this By-law and the provision of any other by-law, approval and/or permit if it is possible to comply with both by-laws dependent on the proposed type, design or location of the pool enclosure, pool and/or spa.

4. POOL ENCLOSURE PERMIT

- 4.1 No person shall excavate for, erect or install a pool, or cause the excavation for, erection of or installation of a pool unless a permit for the pool enclosure has been issued by the Chief Building Official.
- 4.2 To obtain a pool enclosure permit, an applicant shall apply through the City's online portal (APLI) and shall supply any other information relating to the application as required by the Chief Building Official.
- 4.3 Every pool enclosure permit application shall:
 - 4.3.1 describe the land on which the work is to be done, by a description that will readily identify and locate the site on which the pool will exist;
 - 4.3.2 be accompanied by plans, sketches and specifications about the pool enclosure as described in this by-law;
 - 4.3.3 be accompanied by the required fees as determined in accordance with the City of Barrie Fees By-law.
 - 4.3.4 state the name, address, telephone number, and email address of the applicant.
 - 4.3.5 be digitally acknowledged online by the applicant who shall certify as to the truth of the contents of the application.
- 4.4 The Chief Building Official shall, where the conditions in the Subsection 4.3 above have been fulfilled, issue a pool enclosure permit to the applicant unless:
 - 4.4.1 the proposed pool or pool enclosure will contravene this by-law or any other applicable law;
 - 4.4.2 the application for it is incomplete; or
 - 4.4.3 any fees due are unpaid.
- 4.5 An incomplete application or an application awaiting revisions may be deemed to be abandoned and will be cancelled if the applicant has not made satisfactory progress within 30 days of being notified by the Chief Building Official or designate.
- 4.6 Where the subject property is located in an unassumed subdivision, final lot grading certification or written approval from the developer is required prior to permit issuance.
- 4.7 A pool enclosure permit is not required for a swimming pool which has been dismantled or deflated and is being reconstructed, placed, or erected in the exact location in which it was previously constructed, erected or placed provided that a pool enclosure permit was obtained for the original installation, and the required swimming pool enclosure remains in compliance with this By-Law.

5. PLANS AND SPECIFICATIONS

- 5.1 Every applicant shall furnish:
 - 5.1.1 sufficient plans, specifications, documents and other information to enable the Chief Building Official or designate to determine whether the proposed pool enclosure conforms to this by-law and any other applicable laws;
 - 5.1.2 a site plan referenced to a current plan of survey certified by a registered Ontario Land Surveyor and a copy of such a survey shall be filed with the municipality unless this requirement is waived because the Chief Building Official or designate is able, without having a current plan of survey, to determine whether the proposed pool and pool enclosure conforms to this by-law and any other applicable laws. The site plan shall include:
 - 5.1.2.1 lot size and dimensions of the property;
 - 5.1.2.2 setbacks of the pool and pool enclosure from existing and proposed buildings and property lines;
 - 5.1.2.3 existing and finished ground levels or grades, and
 - 5.1.2.4 existing rights of way, easements and municipal services.
- 5.2 Plans submitted shall be legible and be drawn to scale to the satisfaction of the Chief Building Official or designate.
- 5.3 Plans and specifications furnished according to this by-law become the property of the municipality and will be disposed of or retained in accordance with relevant legislation.

6. FEES and REFUNDS

- 6.1 The CBO shall determine the required fees for the work proposed in accordance with the City of Barrie Fees and Charges By-law, Schedule K as amended and the applicant shall pay such fees, in addition to any other fees applicable through other by-laws, regulations and legislation.
- 6.2 Upon receipt of a written request from the applicant to withdraw an application for a pool enclosure permit, a refund of 50% shall be provided.
- 6.3 The CBO shall refund 50% of the permit application fee where the application has been deemed abandoned is being cancelled.
- 6.4 The CBO shall refund 35% of the permit fee where the permit is being cancelled or has been revoked, and no inspections have been performed.

7. POOL ENCLOSURE COMPLIANCE

- 7.1 No person shall erect or install or cause to be erected or installed any pool enclosure except in accordance with this by-law.
- 7.2 No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the Chief Building Official.
- 7.3 No person shall erect or install or cause to be erected or installed any pool enclosure except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued and any changes to them authorized by the Chief Building Official.
- 7.4 No person shall place water or allow water to be placed in any pool to a depth of more than 600mm (23 5/8 inches) unless the pool is safely enclosed by a pool enclosure that complies with the standards set out in this by-law.
- 7.5 Every pool shall continue to be enclosed by a pool enclosure that complies with the standards set out in this by-law so long as water remains or is capable of remaining in the pool to a depth of more than 600mm (23 5/8 inches).
- 7.6 Where a pool is installed on property that abuts Lake Simcoe, or any associated bay, or any public body of water, such property need not be enclosed along the water side provided that land is private and access cannot be gained from any point and the remaining lands surrounding the swimming pool are enclosed in accordance with the requirements of this by-law. Enclosures adjacent to water side to extend to waters edge. During winter months and/or where adjacent body of water is frozen, said pool shall be securely covered or enclosed and/or drained of water to a depth of no more than 600mm (23 5/8 inches).

8. POOL ENCLOSURE STANDARDS

- 8.1 Every pool enclosure shall be designed, constructed and maintained so as to discourage the entry of small children into the pool area.
- 8.2 Enclosure Provisions

The following standards are deemed by the City to satisfy the intent of Article 8.(1) above:

- 8.2.1 **HEIGHT** - Every pool enclosure shall be not less than 1.22 metres (4'-0") in height measured from the finished grade or any climbable structure, fixture or feature on the exterior side of the pool enclosure, to the top of the pool enclosure.
- 8.2.2 **RIGIDITY** - Every pool enclosure shall be constructed and maintained to be rigid and secure, able to resist any reasonable lateral forces that may be applied to

the enclosure material within its minimum required height.

8.2.3 OPENINGS - Except as required for lattice and chain link fences, no openings, spaces or gaps in the enclosure material shall allow the passage of a spherical object having a diameter of 102mm (4") within the enclosure's minimum required height.

8.2.4 NON-CLIMBABLE - Within the enclosure's minimum required height, no horizontal or diagonal components on the exterior side of the pool enclosure shall be located so as to facilitate the climbing of the enclosure. Horizontal or diagonal members shall be tight fitting with no spaces between the components.

8.3.1 BOARD FENCES

8.3.1.1 All board material shall be of minimum 19mm thickness (1 inch nominal thickness).

8.3.1.2 All horizontal support rails shall be of minimum 39mm x 89mm (nominal 2x4) material. All support posts shall be of minimum 89mm x 89mm (nominal 4x4) material spaced not more than 2.4 metres (8 feet) apart.

8.3.2 LATTICE FENCES

8.3.2.1 The openings of any lattice material shall be not greater than 38mm x 38mm (1.5 inches x 1.5 inches) in size. All lattice material shall be laterally supported at all edges and at horizontal and vertical spacing of not more than 1.22 metres (4'-0").

8.3.3 CHAIN LINK FENCES

8.3.3.1 All chain link fences, posts and rails shall be of galvanized or vinyl coated material.

8.3.3.2 All chain link mesh material shall be a minimum of No. 14 gauge wire.

8.3.3.3 The openings of any chain link fencing material shall be not greater than 38mm x 38mm (1.5 inches x 1.5 inches) in size.

8.3.3.4 The chain link mesh material shall be supported at the top and bottom by an approved reinforcing cable or a rail.

8.3.3.5 Every chain link pool enclosure shall be supported by posts that are not less than 38mm (1.5 inches) in diameter, spaced not more than 2.4 metres (8 feet) apart

8.3.4 GATES AND DOORS

8.3.4.1 **SINGLE GATES:** All gates and doors of the pool enclosure other than from the property's dwelling unit, shall be kept in a closed, secure and latched position at all times. All gates shall be of equivalent construction and height as the minimum requirements of the pool enclosure and shall be supported on substantial hinges. Gates and doors shall be equipped with lockable, self-closing hinges and self-latching hardware.

8.3.4.2 **DOUBLE GATES:** Double gates used in a pool enclosure shall have one of the two gates equipped with lockable, self-closing hinges and self-latching hardware. The other gate shall be equipped with a securing device permanently affixed to the ground or other non-moveable object, which will prevent access through this gate without lifting or removing this device and then releasing the hatch. This gate must be kept in a closed, secure and latched position at all times

8.3.4 ABOVE GROUND POOLS

8.3.4.1 Only the ladders or stairs providing access to an above ground pool need be enclosed in accordance with this by-law provided the following conditions are maintained:

8.3.4.2. The sides of an above ground pool shall be not less than 1.22 metres (4 feet) in height measured from the finished grade and any climbable fixture or feature on the exterior face of the pool wall to the top rail of the pool wall, as determined at the time of the initial pool enclosure approval.

8.3.4.3 Pumps, air conditioners, heaters, filters or other appliances or equipment shall be located not less than 1.22 metres (4 feet) from the top rail of the pool walls or shall be enclosed in accordance with this by-law.

8.3.4.4 Above ground pools shall be surrounded by a platform or deck that is not less than 610mm (24 inches) clear width and access to the platform or deck must be restricted by means of a gate in accordance with this By-law.

8.3.4.5 Above ground pools that are surrounded by a platform or deck shall be provided with a guard that is not less than 915mm (3 feet) in height measured from the platform or deck.

- i) Openings through guards shall be of a size that prevents the passage of a spherical object having a diameter of 102mm (4").
- ii) Guards shall be designed so that no member, attachment or opening above the platform or deck will facilitate climbing.

8.3.4.6 Above ground pools that are provided with a removeable ladder must either:

- i) Remove the ladder when the pool is not in use and stored in a secure location not less than 1.22 metres (4 feet) from the side of the pool walls, or,
- ii) The removable pool ladder shall be enclosed in accordance with this by-law and shall be equipped with a gate in accordance with this By-law.

8.3.5 SPAS

8.3.5.1 Outdoor spas need not be enclosed by a pool enclosure provided they are enclosed by a solid, locked cover capable of holding not less than 91 kg (200 lbs) that is secured over the entire water surface when not in use.

8.3.6 OTHER MATERIALS

8.3.6.1 Other fencing materials may be approved by the Chief Building Official where it can be demonstrated that the material will perform with an equivalent degree of safety as outlined in this by-law.

8.3.7 PROHIBITED MATERIALS

8.3.7.1 No barbed wire or anything having similar dangerous characteristics are permitted as a component of a pool enclosure.

8.3.7.2 No electrical current is permitted to be connected to or conducted through any part of a pool enclosure.

8.3.8 TEMPORARY FENCING

8.3.8.1 For a period of not more than two weeks, sections of a permitted pool enclosure can be replaced with temporary fencing material such as plastic mesh to facilitate maintenance or access to the pool area, provided the temporary fence material:

- a) is at least 1.22 metres (4 feet) in height securely supported by posts spaced not more than 1.8m (6 feet) apart;
- b) securely fastened to the remaining sections of the pool enclosure; and
- c) has openings that are not greater than 38mm x 38mm (1.5 inches x 1.5 inches) in size.

8.3.9 EXISTING POOL ENCLOSURES

8.3.9.1 The provisions of this by-law shall not prevent the use of an existing pool and/or pool enclosure if that pool enclosure was constructed prior to the effective date of this by-law in accordance with the regulations of By-law 94-59, or any predecessor to that by-law and has been maintained continuously in accordance with those regulations.

8.3.9.2 At such time as an existing pool enclosure is replaced or proposed to be altered in whole or in part, a permit is required for the replacement or alteration of the pool enclosure and shall be constructed in accordance with this by-law.

8.3.9.3 Where an existing pool enclosure has enclosed a pool in accordance with the regulations that existed prior to the effective date of this by-law, and has been maintained continuously in accordance with those regulations, and that pool enclosure also marks the boundary between abutting properties, the shared portion of the pool enclosure between the abutting properties may form part of a new pool enclosure for a pool on the abutting property which shall be deemed to be in conformity with this by-law. All

other portions of the new pool enclosure that enclose the newly constructed pool shall meet the standards set out in this by-law.

8.3.9.4 A permitted pool enclosure constructed in accordance with this by-law shall be maintained in good condition at all times.

9. **PENALTIES**

- 9.1 Any person who contravenes any provision of this by-law is guilty of an offence and is liable to the surcharges as determined in accordance with the City of Barrie Fees By-law.
- 9.2 Where any person contravenes any provision of this by-law, a Notice of Violation will be issued to the person named in the notice requiring compliance within the timeframe specified in the notice.
- 9.3 A Notice of Violation may be registered against the land to which it applies, and the City is entitled to enforce its provisions against the owner and any person acquiring any interest in the land subsequent to the registration of the Notice of Violation.
- 9.4 Where a Notice of Violation has been issued by the City and compliance has not been achieved within the required time period as set out in the Notice of Violation the City may, through its employees and agents or persons acting on its behalf, enter upon the land to carry out the necessary measures to comply with the Notice of Violation or to drain, fill in or fence the pool at the expense of the person and any and all expenses incurred may be added to the tax roll of the subject property and collected from the owner of the subject property in the same manner as municipal taxes, or in any other manner available to the City, including by action.
- 9.5 Every person who contravenes any provisions of this by-law is guilty of an offence and is liable to the penalties as prescribed in City of Barrie Fees and Charges By-law, Schedule K as amended.
- 9.6 The CBO shall determine the required surcharges fees for enforcement services in accordance with the City of Barrie Fees and Charges By-law, Schedule K as amended and the applicant shall pay such fees, in addition to any other fees applicable through other by-laws, regulations and legislation.

10. **BY-LAW REPEALED**

- 10.1 That By-law 94-59, as amended is hereby repealed.
- 10.2 This by-law comes into force and has effect on the date of its enactment.

READ a first and second time this day of 2024.

READ a third time and finally passed this day of 2024.



THE CORPORATION OF THE CITY OF BARRIE

MAYOR – ALEX NUTTALL

CITY CLERK – WENDY COOKE