

To: Safety and Facilities Services Committee

From: Adam Grant, Commissioner,  
Safety and Facilities Services Department

Report Number: SF-25-14

Date of Report: March 12, 2025

Date of Meeting: March 17, 2025

Subject: Technical Amendments to Pool Enclosure By-law 79-2006

Ward: All Wards

File: 03-05

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## **1.0 Purpose**

The purpose of this Report is to:

- provide information regarding the City of Oshawa's ("City") Pool Enclosure By-law 79-2006, as amended ("Pool Enclosure By-law") and its role in pool safety and risk mitigation;
- seek Council's direction to implement technical amendments to the Pool Enclosure By-law; and
- provide information related to the forthcoming proactive compliance project related to the Pool Enclosure By-law.

## **2.0 Recommendation**

That the Safety and Facilities Services Committee recommend to City Council:

That Council pass a By-law to further amend Pool Enclosure By-law 79-2006, as amended, to implement technical amendments detailed in Section 4.4 of this Report in a final form and content satisfactory to the City Solicitor and the Commissioner, Safety and Facilities Services.

## **3.0 Input From Other Sources**

The following City branches were consulted in the preparation of this Report:

- Legal Services
- Communication Services

## 4.0 Analysis

### 4.1 Background

The [Pool Enclosure By-law](#) is a by-law which requires the erection and maintenance of a pool enclosure around outdoor swimming pools, hydro massage pools, decorative ponds, hot tubs, spas and whirlpools (collectively referred to as “pools”) in Oshawa. A pool enclosure is a fence, wall or other structure, including doors, gates and hardware used to completely enclose a pool. The Pool Enclosure By-law establishes the minimum acceptable standards for the construction, maintenance and repair of pool enclosures and requires property owners to obtain a Pool Enclosure Permit to certify that the pool enclosure meets City standards.

The purpose and intent of the Pool Enclosure By-law is to mitigate the inherent health and safety risks associated with the unobstructed access to pools and supporting drowning prevention by ensuring the isolation of access to pools on public and private property from those not on the property.

### 4.2 Pool Safety, Drowning and Mitigating Risk

Unobstructed access to open water, specifically pools, presents health and safety risks in the form of potential drowning. The Lifesaving Society’s Canadian Drowning Report details the impact of unmitigated risks related to water safety, identifying that each year in Canada over four hundred (400) people lose their life to drowning accidents. In Ontario, eleven percent (11%) of drowning fatalities occur in pools, with ninety percent (90%) of those occurring in private pools.

Research related to water and drowning safety from charitable/non-profit organizations such as the Lifesaving Society and Parachute Canada (funded by the Government of Canada), demonstrates that a properly designed pool enclosure significantly mitigates potential drowning risk by isolating access to the pool. In cases of drowning fatalities, when information on the presence of pool enclosure is known, sixty percent (60%) of the private pools where a fatality occurs had non-compliant pool enclosure or no pool enclosure or at all.

### 4.3 Legislative Environment

The establishment of requirements and standards for pool enclosures through municipal by-laws ensures consistency in risk mitigation across the community. The City’s current Pool Enclosure By-law was enacted in 2006 pursuant to the Municipal Act, 2001, S.O. 2001, c.25 (“Municipal Act”) and replaced now-repealed By-laws 112-68, 55-85, 74-85, 48-87 and 108-97. The City’s pool enclosure regulations have evolved and been enhanced since the City’s first pool enclosure by-law, enacted in May 1969. **Table 1** highlights key regulatory components and enhancements of Pool Enclosure By-laws since May 1969.

**Table 1 - Timeline of City Pool Enclosure Regulations**

Timeline	Key Regulatory Components
May 1969 to May 1985  (By-law 112-68)	<ul style="list-style-type: none"> <li>• No Pool Enclosure Permit required</li> <li>• 1.2 m (4.0 ft) Pool Enclosure required</li> <li>• Self-closing and self-latching gates required</li> </ul>
May 1985 to June 1985  (By-law 55-85)	<ul style="list-style-type: none"> <li>• Pool Enclosure Permit required<sup>1</sup></li> <li>• 1.2 m (4.0 ft) Pool Enclosure required</li> <li>• Self-closing and self-latching gates required</li> <li>• Construction requirements for chain link and wood enclosures<sup>1</sup></li> </ul>
June 1985 to April 1987  (Amending By-law 74-85)	<ul style="list-style-type: none"> <li>• Pool Enclosure Permit required</li> <li>• 1.2 m (4.0 ft) Pool Enclosure required</li> <li>• Self-closing and self-latching gates required</li> <li>• Updated construction requirements for chain link and wood enclosures (maximum 38.1 mm (1.5 in) chain link mesh)<sup>1</sup></li> </ul>
April 1987 to May 2006  (Amending By-law 48-87)	<ul style="list-style-type: none"> <li>• Pool Enclosure Permit required</li> <li>• 1.5 m (5.0 ft) Pool Enclosure required for residential properties<sup>1</sup></li> <li>• 1.8 m (6.0 ft) Pool Enclosure required for commercial and multi-residential properties<sup>1</sup></li> <li>• Self-closing and self-latching gates required</li> <li>• Enhanced construction requirements for each height and type of enclosure (chain link, wood)<sup>1</sup></li> </ul>
After May 2006  (By-law 79-2006)	<ul style="list-style-type: none"> <li>• Pool Enclosure Permit required</li> <li>• 1.5 m (5.0 ft) or 1.8 m (6.0 ft) Pool Enclosure required<sup>1</sup></li> <li>• Self-closing and self-latching gates required</li> <li>• Enhanced construction requirements for each height and type of enclosure (chain link, wood, metal, wrought iron)<sup>1</sup></li> </ul>

<sup>1</sup> denotes an enhancement or change in requirements

Based on benchmarking of the municipalities that require and regulate pool enclosures, the City’s standards are generally in-line or exceed those of comparators. Key components of reviewed pool enclosure by-laws include, but are not limited to:

- fully enclosed four-sided isolation of the pool area from those not on the property;
- enclosure to be comprised of fencing, walls, gates and doors;
- minimum fencing height of 1.2 m (4.0 ft);
- self-closing and self-latching gates; and
- specific requirement for materials and construction of fencing.

In addition to the construction and maintenance standards established in the Pool Enclosure By-law, the property owners are required to obtain a Pool Enclosure Permit. The Permitting process – which includes staff inspections – provides a cost-recovered

proactive customer-centric approach to compliance and mitigating health and safety risks versus a reactive and punitive enforcement approach. The Pool Enclosure Permit is retained on the property title and is valid for the life of the Pool Enclosure. Should any substantive renovations, repairs or upgrades be completed or a new Pool Enclosure is erected, then the property owner would be required to apply for a new Pool Enclosure Permit.

As stated in Section 4.1, the Pool Enclosure By-law establishes the City's minimum standards regarding the construction, maintenance and repair of pool enclosures and is effective in the intended outcome of the by-law by isolating access to the pool area from those not on the property. These minimum standards do not restrict property owners from installing an enhanced pool enclosure (interior child-proof locks, four-sided fencing, etc.) to address unsupervised access from persons on the property by creating further isolation between a dwelling unit and the pool area.

#### **4.4 Technical Amendments to the Pool Enclosure By-law**

To support the continuous improvement of standards to meet the intended outcome of Pool Enclosure By-law, staff recommend the following minor technical amendments:

- Updated references to current legislation and municipal By-laws;
- Implement minor typographical amendments (e.g. position titles, renumbering, etc.)
- Amending Section 4.1.5. by increasing the time period in which work on the Pool Enclosure must be completed for new, non-existent pools from four (4) months to six (6) months, and providing the Director, Municipal Law Enforcement and Licensing Services the authority to shorten the time period on a case-by-case basis at their discretion to address health and safety concerns;
- Amend Section 5.4.2 by clarifying and enhancing the standards for types of fencing and gates which require a Covering Plate Device; and
- Adding a new provision in Section 5.4. to require a Covering Plate Device for gates with plastic or metal decorative features with unobstructed access to the gate latching device.

#### **4.5 Pool Enclosure By-law Compliance**

Through preliminary analysis, staff consider compliance with the Pool Enclosure By-law to be at a moderate rate, with approximately sixty-five percent (65%) of properties with pools in Oshawa having a Pool Enclosure Permit. The vast majority of Pool Enclosure By-law compliance is achieved through voluntary application for these permits by property owners as part of a broader pool installation permitting process. A recent cross-departmental Lean project has led to a streamlined customer-focused permitting process. In addition to process enhancements, staff periodically disseminate relevant and up-to-date pool permitting information to pool installation and fencing contractors to help promote property owners to voluntary compliance.

Typically, non-compliance is identified through complaints from the public or Municipal Law Enforcement Officers (“M.L.E.O.s”) and Licensing and Standards Inspectors (“Inspectors”) logging unpermitted properties as part of other compliance activities. Where possible, and on a case-by-case basis, staff will work with property owners to certify legal non-conforming status within the Pool Enclosure By-law. Municipal Law Enforcement and Licensing Services (“M.L.E.L.S.”) will endeavor to increase compliance through public education, voluntary compliance and enforcement. M.L.E.L.S. staff will initiate a proactive education campaign with Corporate Communications to provide information to the public about the Pool Enclosure By-law with the goal of encouraging voluntary compliance.

## **5.0 Financial Implications**

There are no financial implications related to this Report as current staffing levels have capacity to administer the inspections and recover the associated revenue through the permit process.

## **6.0 Relationship to the Oshawa Strategic Plan**

This report responds to the Oshawa Strategic Plan Priority Area “Care: Safe and Sustainable Environment” with the goal to collaborate and advocate for effective services, programs, and community safety and well-being support.



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