

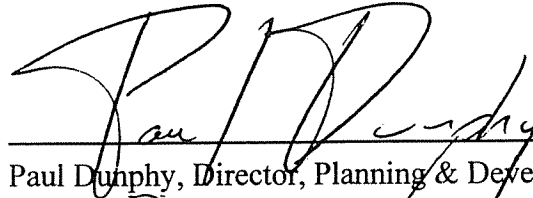
Halifax Regional Council

December 18, 2001

January 22, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Paul Dunphy, Director, Planning & Development Services



Gary Porter, Planner II

DATE: December 6, 2001

SUBJECT: Project 00372 By-law Number S-700 Swimming Pool By-law

INFORMATION REPORT

ORIGIN: Public hearing at Regional Council on December 4, 2001.

BACKGROUND:

At the public hearing with respect to Second Reading of By-law S-700, the Swimming Pool by-law, a motion was adopted that the by-law be amended to allow for a five foot high enclosure around the entire pool and that the pool wall not be considered an adequate enclosure, and that a public hearing be held to consider this matter.

DISCUSSION:

Attached as Appendix "A" is proposed By-law S-700, the Swimming Pool by-law, which has been amended pursuant to Council's motion of December 4, 2001. Staff has no difficulty with the changes made by Council.

The second public hearing will be held on January 22, 2002 so that the statutory advertisement will not occur during the holiday season.

BUDGET IMPLICATIONS:

None

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVE

Council may choose not approve By-law S-700. In such case swimming pools would continue to be subject to the existing regulations that apply in the various areas. In the interest of harmonization, this is not recommended.

ATTACHMENTS

Appendix A Proposed By-law S-700

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by Gary Porter, Planning Services, 490-4403

Appendix A

HALIFAX REGIONAL MUNICIPALITY BY-LAW NUMBER S-700

RESPECTING SWIMMING POOLS

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of Section 172(1) of the Municipal Government Act as follows:

SHORT TITLE

- 1 This By-law shall be known as Bylaw Number S-700 and may be cited as the "Swimming Pool By-law"

INTERPRETATION

- 2 In this By-law:
 - (a) "**Council**" means the Halifax Regional Municipality Regional Council.
 - (b) "**Inspector**" means the Building Inspector for Halifax Regional Municipality, and any By-law Enforcement Officers authorized by the Inspector to act in his or her stead to administer this by-law.
 - (c) "**swimming pool**" means an artificial body of water outside a building, excluding ponds, having more than 100 square feet of surface area that is designed or intended to be used for swimming purposes and contains or is capable of containing a water depth of more than 24 inches.

COMPLIANCE REQUIRED

3. It shall be unlawful to construct, maintain, install or enlarge any swimming pool in Halifax Regional Municipality except in compliance with all the provisions of this by-law.

PERMIT REQUIRED

4. It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private residential swimming pool and appurtenances within Halifax Regional Municipality unless a development permit and building permit therefor has been obtained.

LOCATION

5. (1) No portion of a swimming pool, pumps, filters or pool water disinfection equipment installations shall be located closer than four feet from any side or rear property line.
- (2) No portion of a swimming pool, pumps, filters or pool water disinfection equipment installations shall be located closer to any street line less than the distance applicable to the main building as set out in the land use by-law for the area in which the pool is located.
- (3) No portion of a swimming pool, pumps, filters or pool water disinfection equipment installations shall be located closer to any watercourse than the distance applicable to a main building or accessory building, whichever is less, as set out in the land use by-law for the area in which the pool is located

VARIANCE

6. (1) A development officer may grant a variance to the requirements set out in Section 5.
- (2) A variance may not be granted where the
 - (a) variance violates the intent of the land-use by-law;
 - (b) difficulty experienced is general to properties in the area; or
 - (c) difficulty experienced results from an intentional disregard for the requirements of the land-use by-law.
- (3) Within seven days after granting a variance, the development officer shall give notice in writing of the variance granted to every assessed owner whose property is within 100 feet of the applicant's property.
- (4) The notice shall
 - (a) describe the variance granted;
 - (b) identify the property where the variance is granted; and
 - (c) set out the right to appeal the decision of the development officer.
- (5) Where a variance is granted, a property owner served a notice may appeal the decision to the council within fourteen days after receiving the notice.
- (6) Where a variance is refused, the applicant may appeal the refusal to council within seven days after receiving notice of the refusal, by giving written notice to the clerk who shall notify the development officer.

- (7) Where an applicant appeals the refusal to grant a variance, the clerk or development officer shall give seven days written notice of the hearing to every assessed owner whose property is within 100 feet of the applicant's property.
- (8) The notice shall
 - (a) describe the variance applied for and the reasons for its refusal;
 - (b) identify the property where the variance is applied for; and
 - (c) state the date, time and place when council will hear the appeal.
- (9) Where a council hears an appeal from the granting or refusal of a variance, the council may make any decision that the development officer could have made.
- (10) A development officer shall issue a development permit for any development for which a variance has been granted and which otherwise complies with a land-use by-law if
 - (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the variance has been affirmed by the council.
- (11) A council may by resolution provide that any person applying for a variance shall pay the municipality the cost of
 - (a) notifying affected land owners;
 - (b) posting a sign.

PREVENTION OF UNAUTHORIZED ACCESS

- 7 (1) All swimming pools shall be completely separated from adjacent properties by an obstruction such as a fence, building, deck or similar structure.
- (2) The enclosure shall be constructed to prevent unauthorized access by providing a vertical obstruction having a minimum height of five feet with no opening exceeding four inches in width or height and no member shall be constructed to facilitate climbing.
- (3) For greater certainty, the sidewalls of an above ground pool shall not form part of the enclosure as required by clause (1).
- (4) Except from within a building, all openings into a pool area enclosure shall be equipped with gates having self closing, self latching mechanisms.

CONFLICT WITH LAND USE BY-LAWS

- 8 In case of conflict between the provisions of this by-law and the provisions of any land use by-law, the provisions of this by-law shall prevail except where this by-law specifies that the provisions of the land use by-law apply.

PENALTY

- 9 Every person who contravenes or fails to comply with any provision of this by-law shall for such offence be liable on conviction to a penalty of not less than One Hundred Dollars and not exceeding One Thousand Dollars, and in default of payment to imprisonment not exceeding two months and, in addition may be ordered by the Inspector to demolish and remove, alter or remedy any swimming pool constructed, altered or repaired contrary to the provisions of this by-law.

REPEAL OF BY-LAWS

- 10 The City of Dartmouth Swimming Pool By-law S-1600 and Halifax County Municipality Swimming Pool By-law #52 as amended are hereby repealed.

Done and passed in Council this day of , 2002.

Mayor

Municipal Clerk

I, Vi Carmichael, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of Halifax Regional Council held on , 2002.