

Halifax Regional Council
May 14, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: May 9, 2002

SUBJECT: Swimming Pool By-Law (Project 00372: By-Law Number S-700)

ORIGIN

Staff is bringing this matter forward for clarification regarding Council's intention with respect to pool safety and the Swimming Pool By-law's requirement that pool enclosures such as fences "shall (not) be constructed to facilitate climbing."

RECOMMENDATION

It is recommended that Regional Council pass a motion clarifying whether it is Council's intention that chain link and standard lattice fencing be interpreted as complying with the requirements of Section 7(2) of the Swimming Pool By-law (S-700).

DISCUSSION

- On December 4, 2001 a Public Hearing was held to consider adopting a harmonized swimming pool by-law for the HRM. At the hearing Council raised concerns as to whether or not the standards for fencing around pools were adequate for public safety. As a result the by-law was not approved.
- Council instructed staff to increase the minimum fence height and to clarify that the wall of an above ground pool could not be considered an adequate fence, even if it did not have structural members which could be used for climbing. On January 22, 2002 the revised by-law was adopted by Council.
- In addition to the safety measures described above, the by-law also specifies that pool fences be constructed such that “no member shall be constructed to facilitate climbing.”
- Given Council’s stated concerns about public safety staff has erred on the side of caution when interpreting and administering the by-law. Chain link and lattice fences are both easily climbed and as a result staff has prohibited the construction of both as pool enclosures since adoption of the new by-law. It should be noted however that neither type of fence was specifically discussed at the public hearing.
- The pool and fencing industries disagree with this interpretation and feel that such a requirement is an undue hardship. Given Council’s concerns about pool safety, staff is not prepared to take a more liberal interpretation without Council clarifying its intentions. It is also staff’s desire to have this issue clarified prior to busy season for pool construction.
- Chain link and lattice fences were specifically identified in some of the previous by-laws and not in others. Having said that, each municipality did in fact permit them as adequate pool enclosures.

Swimming Pool By-law (Excerpt)

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.

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

1. Council may confirm staff's interpretation of By-law S-700, the Swimming Pool By-law, that chain link and standard lattice fencing do not meet the requirements of Section 7(2).
2. Council may disagree with staff's interpretation of Section 7(2) of By-law S-700, the Swimming Pool By-law. In such case, staff will permit chain link and standard lattice fencing to be used in order to secure compliance with Section 7(2).

ATTACHMENTS

None

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

Report approved by: _____
Paul Dunphy, Director of Planning & Development