

THE CORPORATION OF THE CITY OF GUELPH

**By-law Number (2019) - 20408
[Office Consolidation]**

A By-law respecting outdoor swimming pools and hot tubs and to repeal By-law Number (1994)-14660, as amended by By-law (2019) - 20421

WHEREAS under Subsection 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, the City of Guelph may pass by-laws respecting health, safety and well-being of persons, protection of persons and property, and structures, including fences and signs;

AND WHEREAS the City of Guelph adopted By-law Number (1994)-14660, being a By-law respecting fences and gates around swimming pools;

AND WHEREAS the City of Guelph wishes to replace that By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this By-law the following terms shall have the corresponding meanings:
 - (a) **“Adult”** means a responsible person who is 18 years of age or older or is at least 16 years of age and is a qualified lifeguard according to the Lifesaving Society of Canada;
 - (b) **“Chief Building Official”** means the City’s Chief Building Official or his or her designate;
 - (c) **“Compliant Audible Alarm”** means, in respect of a window or door opening, an alarm which:
 - i. Sounds when the opening is opened,
 - ii. Meets the requirements of UL 2017 General-Purpose Signalling Devices and Systems, Section 77,
 - iii. Starts within seven seconds after the opening opens,
 - iv. Sounds for at least 30 seconds,
 - v. Produces a sound of at least 85 decibels in volume when measured 3 m from the alarm mechanism,
 - vi. Has a sound distinct from other sounds in the house, such as the telephone, doorbell and smoke alarm,
 - vii. Has a deactivation feature which permits the alarm to be deactivated to allow a person to pass through the opening without setting off the alarm,
 - viii. Has a deactivation button on the interior side of each window opening and on the interior and exterior side of each door opening to deactivate the alarm, each deactivation button located at least 1.4 m above the interior finished floor surface, and
 - ix. Has an automatic reset feature which re-activates the alarm within 15 seconds after it has been deactivated;
 - (d) **“Compliant Safety Cover”** means a cover for a Hot Tub which is:

- i. In compliance with ASTM F1346-91 (2018) Standard Performance Specification for Safety Covers and Labelling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs,
 - ii. Permanently attached to the Hot Tub or the Hot Tub's supporting structure, and
 - iii. Locked to prevent unauthorized entry when not in use;
- (e) "**Fence**" means a fence that completely or partially surrounds a Pool or Hot Tub;
- (f) "**Fire Egress Window**" means a window required under the Ontario Building Code, Ontario Fire Code or Property Standards By-law;
- (g) "**Gate**" means a gate in a Fence;
- (h) "**Hot Tub**" means a hot tub, whirlpool, hydro massage pool, or spa;
- (i) "**House Wall**" means a wall of a house or accessory structure;
- (j) "**Inspector**" means the Chief Building Official and any individual appointed by the Chief Building Official to carry out inspections under this By-law;
- (k) "**Owner**" means the owner of the applicable Pool or Hot Tub, and includes the lessee, tenant, occupant, mortgagee in possession or property manager of the property where the Pool or Hot Tub is located;
- (l) "**Pool**" means an artificial outdoor body of water, including a swimming pool, capable of containing water at least 0.6 m deep, but does not include:
- i. A pond used only for an ornamental, agricultural, horticultural or industrial purpose, for stormwater retention, or as a reservoir for firefighting,
 - ii. A pond located in an agricultural zone, or
 - iii. A swimming pool or Hot Tub which is subject to the Ontario Building Code; and
- (m) "**Temporary Enclosure**" means a temporary enclosure around a Pool or Hot Tub which comprises:
- i. Prefabricated interlocking steel fence sections or metal chain link fencing securely attached to posts no more than 2.4 m apart and supported at the top and bottom to prevent sagging or lifting, in either case at least 1.5 m in height, or
 - ii. A functioning non-penetrable Pool cover complying with ASTM F1346-91 (2018) Standard Performance Specification for Safety Covers and Labelling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs.

SEVERABILITY

2. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law will continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

INSTALLATION OF POOLS AND HOT TUBS

3. Every person who intends to have a Pool or Hot Tub, and, if applicable, a Fence, installed, whether as an original or a replacement, shall, before such installation, obtain the applicable permit from the City.
4. Every Owner who has a Pool or Hot Tub installed shall ensure that such installation complies with:
 - (a) The applicable permit;

- (b) This By-law;
- (c) All other applicable City By-laws, including, but not limited to, the Zoning By-law, Standing Water By-law, Storm Water Disposal By-law, Sewer Use By-law and Property Standards By-law; and
- (d) All other applicable law.

POOL DESIGN

5. Every Owner shall ensure that, in respect of the Owner's Pool:
 - (a) The Pool design complies with the ANSI/APSP/ICC-7 Standard for Entrapment Avoidance;
 - (b) If the Pool has main drains or wall suction fittings, at least 2 main drains or wall suction fittings are provided, and are located at least 0.914 m apart, each complying with ANSI/APSP-16 Standard for Suction Fittings;
 - (c) Every plumbing connection (including exterior hose bibs) between any potable water supply and the Pool is equipped with a backflow prevention device; and
 - (d) All water from the Pool discharges to a sanitary sewer system in accordance with the City's Sewer Use By-law, and does not discharge:
 - i. Onto any adjacent property,
 - ii. Into any stream, river, pond, ditch or lake, or
 - iii. Directly into a storm sewer system.

INSPECTIONS

6. Every Owner of a Pool or Hot Tub shall arrange the following inspections:
 - (a) A final electrical inspection of all electrical wiring and electrical connections associated with the Pool or Hot Tub, to be carried out by the Electrical Safety Authority; and
 - (b) A final inspection of the Pool and/or Hot Tub and all enclosures, to be carried out by an Inspector.

FILLING WITH WATER

7. Every Owner of a Pool or Hot Tub shall ensure that the Pool or Hot Tub is not filled with water before written approval for filling with water has been received from an Inspector.
8. An Inspector may approve a Hot Tub for filling with water before the usual final approval if:
 - (a) The Hot Tub has been fitted with a Compliant Safety Cover;
 - (b) The Owner has arranged the final electrical inspection by the Electrical Safety Authority to take place upon an agreed date; and
 - (c) The Owner agrees that:
 - i. The Hot Tub will not be filled with water until no more than one business day before the planned final electrical inspection by the Electrical Safety Authority,
 - ii. The Compliant Safety Cover will be locked in closed position immediately after the Hot Tub is filled with water, and
 - iii. Except during the final electrical inspection, the Compliant Safety Cover will be kept locked in place until the Hot Tub has been approved by the Electrical Safety Authority and the Inspector.

USE OF POOLS AND HOT TUBS

9. Every Owner of a Pool or Hot Tub or replacement fence shall ensure that the Pool or Hot Tub is not used before written approval for use has been received from an Inspector.
10. An Inspector may approve a Pool or Hot Tub for use before the usual final approval if:
 - (a) Installation or construction of the electrical system for the Pool or Hot Tub has not been completed; and
 - (b) The Owner agrees to:
 - i. Arrange a final inspection of the electrical system by the Electrical Safety Authority, and
 - ii. Ensure that the final inspection report from the Electrical Safety Authority is submitted to the Inspector within 10 business days following the inspection of the electrical system.
11. Every Owner of a Pool or Hot Tub shall ensure that the electrical system serving the Pool or Hot Tub is not actively used before written approval for use has been received from the Electrical Safety Authority and an Inspector.

FENCES

12. Every Owner who has a Fence installed around a Pool or Hot Tub shall ensure that such installation complies with:
 - (a) The applicable permit;
 - (b) This By-law;
 - (c) All other applicable City By-laws, including, but not limited to, the Zoning By-law; and
 - (d) All other applicable law.
13. Every Owner shall ensure that the Owner's Fence:
 - (a) On a property containing a single detached dwelling, a semi-detached dwelling, or an on-street townhouse dwelling, has a height of at least 1.5 m above ground level, and, on any other property, has a height of at least 1.8 m above ground level;
 - (b) If a chain link fence, does not contain any diamond mesh opening greater than 50 mm in any dimension;
 - (c) Has no barbed wire forming any part of it;
 - (d) Does not project electric current through any part of it;
 - (e) If constructed of vertical members, has no more than 100mm of separation between such vertical members;
 - (f) Has a maximum opening of 100mm between the bottom of the Fence and the ground;
 - (g) Has horizontal members located at least 1.2 m apart, or, if located less than 1.2 m apart, has no more than 50mm of separation between the vertical members;
 - (h) Is erected and maintained in a structurally sound condition; and
 - (i) Is constructed and maintained in such a state as to prevent it from being climbed.

ENCLOSURES AROUND POOLS AND HOT TUBS

14. Every Owner of a Pool shall ensure that the Pool is enclosed completely on all sides by a Fence.
15. Despite the foregoing requirement, a House Wall may be used in place of part of a Fence if:

- (a) The House Wall and Fence together enclose the Pool completely on all sides; and
 - (b) The House Wall satisfies all the requirements of this By-law in respect of House Wall openings.
16. Despite the foregoing requirement for a permanent enclosure, an Owner of a Pool may use a Temporary Enclosure in place of a Fence if:
- (a) The Pool Owner is required to fill a Pool with water before the Fence can be fully installed;
 - (b) The Temporary Enclosure is removed only to allow construction access during normal work hours, and is reinstalled at the end of each work day; and
 - (c) The Temporary Enclosure is only in place for a maximum of four weeks, unless otherwise approved in writing by an Inspector.
17. Every Owner of a Hot Tub shall ensure that the Hot Tub:
- (a) Is enclosed completely by a Fence and/or House Wall; or
 - (b) Has a Compliant Safety Cover.

GATES

18. Every Owner shall ensure that the Owner's Fence contains at least one Gate, unless the Owner's property contains an on-street townhouse dwelling where a Gate cannot be installed.
19. Every Owner shall ensure that each Gate:
- (a) Complies with all the requirements of a Fence set out in this By-law;
 - (b) Is self-closing and self-latching;
 - (c) Automatically returns the Gate to the closed and latched position from a 150mm open position;
 - (d) If the latch release mechanism of the self-latching device is less than 1.4 m from the bottom of the Gate, has a latch release mechanism that is at least 75mm below the top of the Gate, and on the side of the Gate facing the Pool;
 - (e) If the latch release mechanism of the self-latching device is 1.4 m or more from the bottom of the Gate, has a latch release mechanism that is on the side of the Gate facing the Pool;
 - (f) Has no opening within 0.45 m from the latch release mechanism that is greater than 12mm in width;
 - (g) Is clear of any obstruction or any other means that could hold the Gate open;
 - (h) When lifted up or pulled down, does not:
 - i. Activate the latch release mechanism,
 - ii. Come off its hinges, or
 - iii. Expose a ground clearance greater than 100mm;
 - (i) Is locked at all times except when an Adult is supervising use of the Pool or Hot Tub; and
 - (j) If it comprises a double Gate, has:
 - i. One side of the double Gate which satisfies all the requirements of a Gate under this By-law, and
 - ii. The other side of the double Gate, which is equipped with a securing device affixed to the ground or another immovable object, which prevents access through this side of the Gate without the lifting or removal of this securing device.

HOUSE WALL OPENINGS

20. Every Owner whose Pool or Hot Tub enclosure includes a House Wall shall ensure that every swinging person door in the House Wall which provides direct access through the House Wall to the Pool or Hot Tub is:
 - (a) Equipped with a self-closing and self-latching device that automatically returns the swinging door to the closed and latched position from a 150mm open position;
 - (b) Clear of any obstruction or other means that could hold the swinging door open; and
 - (c) Equipped with a Compliant Audible Alarm.
21. Every Owner whose Pool or Hot Tub enclosure includes a House Wall shall ensure that every sliding door in the House Wall which provides direct access through the House Wall to the Pool or Hot Tub is equipped with a Compliant Audible Alarm.
22. Every Owner whose Pool or Hot Tub enclosure includes a House Wall shall ensure that every openable window, other than a Fire Egress Window, in the House Wall, located less than 1.4 m above the finished floor surface, which provides direct access through the House Wall to the Pool or Hot Tub, has at least one of the following:
 - (a) A secure screen;
 - (b) A device that limits its initial opening width to 100mm, and if such device has a manual over-ride (as opposed to an over-ride that requires a key or other specialized tool to operate it), an over-ride which is located less than 1.4 m above the finished floor surface; or
 - (c) A Compliant Audible Alarm.
23. Every Owner whose Pool or Hot Tub enclosure includes a House Wall shall ensure that every Fire Egress Window in the House Wall which provides direct access through the House Wall to the Pool or Hot Tub is:
 - (a) Equipped with a secure screen or a Compliant Audible Alarm; and
 - (b) Not equipped with a device that limits its initial opening width.
24. The foregoing sections relating to House Wall Openings do not apply if the Pool or Hot Tub is fitted with an automatic safety cover which:
 - (a) Complies with ASTM F1346-91 (2018) Standard Performance Specification for Safety Covers and Labelling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs;
 - (b) Is in place when the Pool or Hot Tub is not in use; and
 - (c) Has its controls located at least 1.524 m above grade or the finished floor surface.
25. Every Owner of a Pool or Hot Tub shall ensure that no pet door provides direct access to the Pool or Hot Tub enclosure.

POOL AND HOT TUB EQUIPMENT

26. Every Owner of a Pool shall ensure that the following safety equipment is mounted in a clearly visible location within 3 m of the Pool:
 - (a) A rescue pole at least 4.9 m in length, equipped with a shepherd's crook; or
 - (b) A Canadian Coast Guard approved life ring buoy at least 0.6 m in diameter, attached to a buoyant line at least 15 m long.

27. Every Owner shall ensure that no Pool or Hot Tub equipment or any other item is attached to, or placed within 0.6 m of the exterior of a Fence, if it might:
 - (a) Facilitate climbing over the Fence or into the Pool or Hot Tub; or
 - (b) Diminish the structural integrity of the Fence, Pool or Hot Tub.
28. Every Owner shall ensure that every Pool or Hot Tub chemical is stored in a safe, vented and locked container, or in a building out of the reach of children.
29. Every Owner shall ensure that:
 - (a) A Pool safety rules sign approved by the Pool and Hot Tub Council of Canada is permanently affixed in a visible location near the Owner's Pool; and
 - (b) A Hot Tub safety rules sign approved by the Pool and Hot Tub Council of Canada is permanently affixed in a visible location near the Owner's Hot Tub.

POOL AND HOT TUB OPERATION

30. Every Owner shall ensure that all Fences, Gates, House Walls, Pool and Hot Tub equipment, covers and all associated access devices, controls, safety equipment and signage, and all other items required under this By-law are:
 - (a) Maintained in such condition that they are structurally sound;
 - (b) Operational and able to perform their intended functions; and
 - (c) Inspected annually by the Owner.
31. Every Owner shall ensure that the Owner's Pool or Hot Tub remains in compliance with:
 - (a) This By-law;
 - (b) All other applicable City By-laws, including, but not limited to, the Zoning By-law, Standing Water By-law, Storm Water Disposal By-law, Sewer Use By-law and Property Standards By-law; and
 - (c) All other applicable law.

IN-GROUND POOL REMOVAL

32. Every Owner who intends to have an in-ground Pool permanently removed shall:
 - (a) Before such removal, obtain the applicable permit from the City for such removal; and
 - (b) During the removal, comply with all requirements of the permit.

ADMINISTRATION AND ENFORCEMENT [amended by By-law (2019) – 20421]

33. The Chief Building Official may take any actions, make any decisions and delegate any authority, necessary to carry out this By-law. Without limiting the generality of the foregoing, the Chief Building Official may, in respect of this By-law:
 - (a) Determine what information and material will be required in an application for a permit;
 - (b) Determine what information and material will be provided in a permit;
 - (c) Determine any fees to be associated with applications for permits, issuances of approvals, and any other matters involving City activity under this By-law; and
 - (d) Authorize individuals to act as Inspectors under this By-law.
34. The City's Power of Entry By-law applies to enforcement of this By-law by every Inspector.

35. Every person who contravenes any provision of this By-law is guilty of an offence, and, on conviction, is liable to a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, Chapter P.33 as amended*. Such offence shall be designated as a continuing offence for each day or part of a day that the contravention remains uncorrected, pursuant to subsection 429 (2) (a) of the *Municipal Act*.

GENERAL

36. By-law Number (1994)-14660 is hereby repealed.
37. This By-law shall come into force and take effect upon passage.
38. Despite the repeal of By-law Number (1994)-14660, its provisions shall continue to apply to any Pool, Hot Tub, Fence, Enclosure, Gate, House Wall, or Equipment which was the subject of a permit for which a complete application was received by the City prior to this By-law coming into force and taking effect.

PASSED this TWENTY SEVENTH day of MAY, 2019.

Original signed by _____
CAM GUTHRIE – MAYOR

Original signed by _____
STEPHEN O'BRIEN – CITY CLERK