



## STAFF REPORT ACTION REQUIRED

### Public Pools: Scarborough By-law 23204

<b>Date:</b>	April 13, 2015
<b>To:</b>	Board of Health
<b>From:</b>	Medical Officer of Health
<b>Wards:</b>	All
<b>Reference Number:</b>	

### SUMMARY

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On March 9, 2015, the Board of Health requested the Medical Officer of Health to report on repealing Scarborough By-law 23204. This by-law requires residential rental building owners to provide lifeguards for pools located in these buildings where there are residents younger than 16 years of age.

### RECOMMENDATIONS

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**The Medical Officer of Health recommends that:**

1. City Council authorize the City Solicitor to introduce a Bill in Council to repeal former City of Scarborough By-law No. 23204

### FINANCIAL IMPACT

There is no financial impact arising from this report.

### DECISION HISTORY

At its meeting on March 9, 2015 the Board of Health requested the Medical Officer of Health to report back on repealing (former) City of Scarborough By-law No. 23204 (the "By-law").

The present report recommends that City Council repeal the By-law.

### ISSUE BACKGROUND

The By-law requires lifeguards at apartment buildings and regulates the number of lifeguards required and the qualifications that they need to hold. Apartment building in the By-law is defined as a building that is divided into multiple dwelling units or suites,

whether leased or not, but does not include a condominium, co-operative or commune property. The By-law requirement for lifeguards at apartment buildings with residents younger than 16 years of age is more stringent than what is required by Ontario Regulation 565, Public Pools, made under the authority of the *Health Protection and Promotion Act*. (the "Regulation"), although the requirements for lifeguard qualifications are the same.

The Regulation requires, for class B swimming pools, that either a lifeguard be on duty or that notices be posted stating that the pool is unsupervised and bathers under twelve years of age are not allowed within the pool enclosure unless accompanied by a parent or his or her agent who is not less than sixteen years of age. Class B pool by definition includes a pool operated on the premises of an apartment building or condominium that contains more than 5 units or suites or in association with places such as an mobile park, hotel, campground or clubs. There are other types of premises (i.e. day nurseries, day camps, institution for the care or treatment of persons who are ill, infirm or aged) included in the definition of a Class B pool and in some circumstances exemptions are provided, however this is not material to the issue in question.

Currently, the requirements for lifeguards at apartment pools in the City of Toronto, except apartment pools in the former City of Scarborough, are governed solely by the Regulation.

## **COMMENTS**

The Regulation and the By-law were enacted within a year of each other, 1990 and 1991 respectively. The Regulation allows for children 12 years of age or older to swim unaccompanied and/or without lifeguard supervision at apartment pools and all other pools classified as Class B across the City whereas in the former City of Scarborough, the By-law requires lifeguards to be present at apartment building pools where there are residents who are less than 16 years of age living in the apartment building. Toronto Public Health (TPH) has been unable to determine the reason for the stricter requirement in the By-law when it was proposed.

Currently there are a total of 150 (83 indoor and 67 outdoor) Class B public pools located within the boundaries of the former City of Scarborough. The By-law excludes certain types of buildings such as a condominium, co-operative or commune from its requirements and also exempts pools operated on the premises of an apartment building, where prior to the day the By-law came into force, all the tenants and members of their families in the apartment are required to be at least sixteen years of age and provided that there is no change in the requirement regarding the minimum age of the tenants and members of their families in the apartment. A review of TPH records reveals that approximately one third of the 150 Class B public swimming pools are excluded from the requirements of the By-law because these pools are located within condominiums and co-operatives, are operated on the properties of townhouse complexes and hotels or are part of swim club operations. At this time, TPH is unable to determine how many of the remaining pools (approximately 100) are governed by the requirements of the By-law because the pools at apartment buildings where the tenants and members of their families

are required to be at least sixteen years of age cannot be readily ascertained from data in our records.

Provincially, there are no anticipated changes that would bring the requirements in the By-law into effect for all Class B pools. Currently all public swimming pools, spas and wading pools are inspected under TPH's comprehensive recreational water program including those pools subject to the By-law. These recreational water facilities are inspected at frequencies established by the Ontario Public Health Standards (which are established under the authority of the *Health Protection and Promotion Act*) to ensure they meet health and safety requirements of the Regulation. Owners and/or operators of pools are given written instructions for corrective actions when infractions are identified and when a health hazard is identified, an order to close the pool is issued.

In the City of Toronto, only apartment pools in the former City of Scarborough must provide lifeguards for apartment buildings where residents younger than 16 years of age live in those buildings. This creates an inconsistent regulatory environment across the City of Toronto for which there is no readily apparent justification. There are 867 Class B pools that are inspected by Toronto Public Health across the City; 17% of these pools are located within boundaries of the former City of Scarborough. Repealing the By-law would bring all public pools in the City of Toronto under the authority of the Regulation making requirements for public pools consistent across the City.

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## **SIGNATURE**

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