

## City of Chilliwack

### Bylaw No. 3811

#### A bylaw to require the enclosure of private swimming pools

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WHEREAS Sections 8(3)(g) and 63(d) of the *Community Charter*, S.B.C. 2003 c. 26 provide that Council may, by bylaw, exercise its authority over protection of persons and property to regulate, prohibit and impose requirements in relation to the enclosure of swimming pools and other pools;

NOW THEREFORE the Council of the City of Chilliwack in open meeting assembled enacts as follows:

1. This bylaw may be cited as “**Swimming Pool Enclosure Bylaw 2011, No. 3811**”.
2. “Swimming Pool Fence Bylaw 1996, No. 2312” and amendments thereto are hereby repealed.

#### INTERPRETATION

3. In this Bylaw:

"Building Inspector" means a person assigned by Council to administer and enforce the building code and related municipal bylaws;

"safety cover" means a barrier for swimming pools, which inhibits access to the contained body of water and which is intended to be completely removed before entry of persons into the water;

“Safety Cover Performance Specification” means the specification created by ASTM International under the fixed designation F1346 (“Safety Covers And Labeling Requirements for All Covers For Swimming Pools, Spas And Hot Tubs”);

“swimming pool” means a pool or other structure designed and constructed for swimming, bathing, wading or diving having a surface area greater than 9m<sup>2</sup> and a depth at any point of more than 45cm, which is not open to use by the public, including, without limitation, in-ground pools, above-ground pools, wading pools, hot tubs and spas.

#### SAFETY REQUIREMENTS

4. (1) Every owner of a swimming pool shall ensure that the swimming pool is completely enclosed with a fence which shall:
  - (a) have a minimum height of 1.2m;
  - (b) have no openings greater than 10cm; and
  - (c) be maintained in good repair so as to restrict the entry of persons and animals.

- (2) Any gate in a fence constructed under subsection (1) shall:
    - (a) have a minimum height of 1.2m;
    - (b) have a self-closing and locking latch; and
    - (c) have no openings in it, or between it and the fence, greater than 10cm when closed.
5.
  - (1) Despite Section 4, where a fence is not installed to enclose a swimming pool, a safety cover certified to meet the requirements of the Safety Cover Performance Specification must be installed and maintained on the swimming pool in accordance with that specification.
  - (2) Where a fence is not provided in accordance with Section 4 and a safety cover is installed in accordance with Subsection 5(1), it is the responsibility of the occupier of the property to have the safety cover properly secured to prevent access to the pool when the pool is not in use and not under the direct supervision of a competent person.
  - (3) Where a fence is not provided in accordance with Section 4, the owner of the property must enter into a covenant with the City to indemnify the City against all claims and demands, actions, suits or other proceedings against all loss and costs, which may be caused by or arise out of, or in any way be attributable or incidental to the owner’s non-compliance with Section 4.

**AUTHORITY TO INSPECT**

6. The Building Inspector may at all reasonable hours enter any property to determine if the property or any fence or swimming pool on the property complies with the provisions and requirements of this Bylaw.
7. No person shall obstruct, refuse or neglect to admit to any property regulated under this Bylaw, the Building Inspector or other municipal officer or employee in the execution of his duties or for any purpose relating to this Bylaw.

**EXEMPTIONS**

8. Where a swimming pool is situated on a property which is entirely fenced, and the fence complies with Section 4, the swimming pool itself need not be fenced.
9. Swimming pools constructed completely above ground, and where the method of construction prohibits direct access into the swimming pool, are exempt from this Bylaw provided that any decks, ladders and stairs to the swimming pool are removed or rendered inaccessible when not in use.
10. Swimming pools entirely contained within a building or structure that can be locked to prevent unauthorized access are exempt from this Bylaw provided that the building or structure remains locked when the pool is not in use.

**OFFENCE AND PENALTY**

- 11. Every person who violates any provision of this Bylaw, or who suffers or permits any act or thing to be done in violation of any provision of this Bylaw, or who neglects to or refrains from doing anything required to be done by any provision of this Bylaw, is guilty of an offence against this Bylaw and is liable to the penalties imposed under this Bylaw and each day that a violation continues to exist is deemed to be a separate offence against the Bylaw.
  
- 12. Every person who commits an offence against this Bylaw shall be liable upon summary conviction to a fine or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the *Offence Act*, R.S.B.C. 1996, c. 338, as amended.

**SEVERABILITY**

- 13. If any section, subsection, clause or phrase of this Bylaw is held invalid by a Court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this Bylaw shall be deemed to have been adopted without the severed section, subsection, clause or phrase.

Received first reading on the 1<sup>st</sup> day of November, 2011.

Received second reading on the 1<sup>st</sup> day of November, 2011.

Received third reading on the 1<sup>st</sup> day of November, 2011.

Reconsidered, finally passed and adopted on the 15<sup>th</sup> day of November, 2011.

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“Sharon Gaetz”

Mayor

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“Karla D. Graham”

Clerk