

Town of Conception Bay South

Development Regulations Amendment No. 57, 2024

Residential Swimming Pools and Similar Structures

**Prepared by the
Town of Conception Bay South**

October 2024

**Urban and Rural Planning Act, 2000
Resolution to Adopt
Town of Conception Bay South Development Regulations
Amendment No. 57, 2024**

Be it so resolved, that under the authority of Section 16 of the *Urban and Rural Planning Act, 2000*, Development Regulations Amendment No. 57, 2024, be adopted.

Adopted by the Town Council of Conception Bay South on the 15 day of October, 2024.


Signed and sealed this 15 day of October, 2024.


Mayor:

Clerk:

Canadian Institute of Planners Certification

I certify that Amendment No. 57, 2024 to the Conception Bay South Development Regulations has been prepared in accordance with the requirements of the *Urban and Rural Planning Act, 2000*.


Corrie Davis, MCIP



Development Regulations/Amendment	
REGISTERED	
Number	<u>1145-0044-2024</u>
Date	<u>1 Nov 2024</u>
Signature	<u>[Handwritten Signature]</u>

Town of Conception Bay South Development Regulations Amendment No. 57, 2024

1. Introduction

The Conception Bay South Municipal Plan and Development Regulations came into legal effect on July 20, 2012. Council is considering amending the Development Regulations. This report has been prepared to explain the proposed change, and to serve as a background information for Council and the public.

2. Background

Requirements for residential swimming pools are outlined within section 5.22 of the Development Regulations. Additionally, "swimming pools" are included as accessory buildings within in section 4(1)(b)(ii) of the provincial *Development Regulations* (NLR 3/01) made by the Minister under authority of section 36 of the *Urban and Rural Planning Act, 2000*, which is binding on the Town.

At present, the Town's Development Regulations do not differentiate swimming pools and other similar structures from any other types of accessory structures (garages, sheds, greenhouses, etc) within Sections 5.2 and 5.3.

Council acknowledges that there is great variability in swimming pools and similar amenities and that the current Development Regulations do not allow for consideration of that variability. Council therefore agreed to add content to the Development Regulations to reflect the variability for pool like amenity structures.

3. Assessment

St. John's Urban Region Regional Plan

The St. John's Urban Region Regional Plan (Regional Plan) identifies Conception Bay South as a sub-regional centre. Upon installation of municipal services, the Regional Plan encourages a wide range of residential densities, a variety of commercial operations, parks and recreational facilities and other uses that are characteristic and appropriate for a sub-regional centre. The Regional Plan is silent on accessory uses, and therefore regulation of those structures can be addressed by the Conception Bay South Municipal Plan and Development Regulations without creating a conflict with the Regional Plan.

The Conception Bay South Municipal Plan

The Conception Bay South Municipal Plan came into legal effect on July 20, 2012. The Municipal Plan allows for accessory uses and buildings subject to the Conception Bay South Development Regulations. This amendment complies with the intent and policies of the Conception Bay South Municipal Plan.

Section 4.3.25 of the Municipal Plan allows for accessory uses that are normally incidental to the main use of the property; swimming pools and similar aquatic structures on residential properties are reasonable accessory uses.

Section 9.3.2 of the Municipal Plan guides Council when considering amendments to the Development Regulations and requires that, among other issues that are generally site specific, Council consider impacts of height, scale, lot coverage, and bulk with adjacent properties. The proposed changes in how swimming pools, and other similar accessory uses are regulated includes those considerations.

The Conception Bay South Development Regulations

Section 5.4 of the Conception Bay South Development Regulations allows accessory that are incidental and complimentary to the use of the overall property. Swimming Pools are included as acceptable accessory uses on residential properties. This amendment provides clarification of how various types of swimming and recreational aquatic features should be regulated. This amendment therefore complies with the intent of the Development Regulations.

The amendment also corrects a typographical error in the subsection numbering sequence of Section 5.4 of the Development Regulations.

4. Consultation

In accordance with section 14 of the *Urban and Rural Planning Act, 2000*, notices seeking feedback on the proposed amendment was published in the August 12 and 19, 2024 editions of *The Shoreline* newspaper. A similar notice, and the proposed amendment, was also published on the Town's website and social media. The Town received one submission in support of the proposed amendment.

A public information session was scheduled for September 25, 2024 and was re-scheduled to October 2, 2024 to discuss the proposed amendments. Notice of the Public information session was published in the September 9 and 16, 2024 editions of *The Shoreline* newspaper. Similar notices were posted to the Town's website and social media.

No residents or interested parties attended the information session.

The Town determined that this consultation opportunity was reflective of the size, structure and complexity of planning issues under consideration and provided reasonable opportunity for interested persons, businesses and community groups to comment on the proposed amendment.

5. Development Regulations Amendment No. 57, 2024

The Conception Bay South Development Regulations are amended as follows:

5.1 Definitions

The following definitions are added to Part 2:

2.51.1 Hot Tub means an indoor or outdoor prefabricated vessel with a maximum depth greater than 0.4m but not more than 0.91m and a water surface area of less than 4m² for immersion of one or more bathers and may include an a jetted or whirlpool device driven by air or water, whether described as hot up, spa or using any other name but does not include a “portable pool”, “swimming pool”, “swim spa” or “wading pool” as defined by these Regulations.

2.80.2 Portable Swimming Pool means a temporary water facility designed for recreational use with a water depth less than 0.91m and a maximum water surface area of less than 10.5m² that is placed on the ground and constructed from materials such as vinyl, plastic, or inflatable components, allowing for easy assembly and disassembly.

2.103.1 Swim Spa means a type of compact, in-ground or above-ground recreational water facility designed primarily for exercise, relaxation, and therapeutic purposes. It combines features of both a swimming pool and a hot tub, and includes a current-generating system that allows for continuous swimming or resistance training in a smaller space than a standard pool. Swim spas may or may not have built-in seats, hydraulic or pneumatic jets, and heating elements.

2.110.1 Wading Pool means a portable, prefabricated vessel intended for temporary use designed primarily for water-based play by children with a maximum water depth of less than 0.4m, has a water surface area less than 2.65m², and does not include accommodation or fixtures for circulation or treatment of water.

Section 2.103 that currently states:

2.103 Swimming Pool (Residential) means any in-ground or above-ground structure that is located in a rear yard of a residential lot capable of containing water with a minimum depth of 61cm, including swimming pools, non-portable wading pools, and landscape water features, but excludes hot tubs and existing natural bodies of water or streams.

Is modified so that it now reads:

- 2.103 Swimming Pool (Residential)** means any in-ground or above-ground structure, whether or not enclosed within a building or dwelling, that is capable of containing water with depth greater than 0.61m and includes swimming pools, non-portable pools, but excludes hot tubs, portable swimming pools, wading pools, and swim spas as defined by these Regulations.

5.2 Exclusions from Accessory Building Regulations

Section 5.3 that currently states:

5.3 Residential Accessory Buildings

In addition to the requirements of Section 5.2, Residential Accessory buildings shall be subject to the following requirements:

1. On a lot that is less than 1150m² in area, the cumulative lot coverage of accessory building(s) on the lot shall not exceed 6%.
2. On a lot that is greater than or equal to 1150m² but less than 4050m² in area, the cumulative lot coverage of accessory building(s) on the lot
 - a. shall not exceed 70m², or
 - b. at the discretion of Council and following public consultation, may be permitted to a maximum of 6% of the lot area, provided that the lot coverage of the accessory building(s) does not exceed the lot coverage of the dwelling.
3. On a lot that is greater than or equal 4050m² in area, the cumulative lot coverage of accessory building(s) on the lot
 - b. shall not exceed 70m², or
 - c. at the discretion of Council and following public consultation, may be permitted to a maximum of 6% of the lot area.
4. In this section, lot area shall include the cumulative lot area for both the main lot and the adjoining lot where a proposed accessory building is considered under Section 5.2(1) of these Regulations.

Is modified so that it now reads:

5.3 Residential Accessory Buildings

In addition to the requirements of Section 5.2, residential accessory buildings including detached indoor swimming pools, but excluding swimming pool and other structures listed in Section 5.22, shall be subject to the following requirements:

1. On a lot that is less than 1150m² in area, the cumulative lot coverage of accessory building(s) on the lot shall not exceed 6%.
2. On a lot that is greater than or equal to 1150m² but less than 4050m² in area, the cumulative lot coverage of accessory building(s) on the lot
 - a. shall not exceed 70m², or
 - b. at the discretion of Council and following public consultation, may be permitted to a maximum of 6% of the lot area, provided that the lot coverage of the accessory building(s) does not exceed the lot coverage of the dwelling.
3. On a lot that is greater than or equal 4050m² in area, the cumulative lot coverage of accessory building(s) on the lot
 - a. shall not exceed 70m², or
 - b. at the discretion of Council and following public consultation, may be permitted to a maximum of 6% of the lot area.
4. In this section, lot area shall include the cumulative lot area for both the main lot and the adjoining lot where a proposed accessory building is considered under Section 5.2(1) of these Regulations.

Section 5.3.1 that currently states:

5.3.1 Placement on the Lot

1. An accessory building shall not be placed any closer than 1.5 metre from a side or rear yard line, or 0.3 metres from an easement, or 3 metres from the main building or any other building.
2. Where no reasonable options are available, an accessory building, may be placed in front of the dwelling only where:
 - a) The slope of the lot, and/or natural screening effectively blocks the view of the building from the street and adjoining properties;
 - b) The building can be set back to the minimum building line setback for the residential dwelling;

- c) A site plan is submitted showing the relationship of buildings on the lot and the location of the proposed building;
- d) The building is balanced with the main building in terms of exterior finish, roof line and pitch;
- e) The placement of the building will not have a negative effect on neighbouring properties.

Is modified s that it now reads:

5.3.1 Placement on the Lot

1. An accessory building including detached indoor swimming pools, but excluding swimming pool and other structures listed in Section 5.22, shall not be placed any closer than 1.5 metre from a side or rear yard line, or 0.3 metres from an easement, or 3 metres from the main building or any other building.
2. Where no reasonable options are available, an accessory building, may be placed in front of the dwelling only where:
 - a) The slope of the lot, and/or natural screening effectively blocks the view of the building from the street and adjoining properties;
 - b) The building can be set back to the minimum building line setback for the residential dwelling;
 - c) A site plan is submitted showing the relationship of buildings on the lot and the location of the proposed building;
 - d) The building is balanced with the main building in terms of exterior finish, roof line and pitch;
 - e) The placement of the building will not have a negative effect on neighbouring properties.

5.3 Residential Swimming Pool & Aquatic Structure Regulations

Section 5.22 that currently states:

5.22 Residential Swimming Pool

A residential swimming pool shall be a permitted accessory use subject to the following conditions:

- a) A swimming pool shall be located in the rear yard of a residential property with a minimum of 2m from any property boundary;

- b) A swimming pool shall be enclosed by a fence constructed in accordance with the Conception Bay South Fence Regulations;
- c) Not exceed 6.0% of the area of the lot;
- d) Not encroach upon any easement; and
- e) Not be placed over any existing, on-site septic system.

Is modified, so that it now reads:

5.22 Residential Swimming Pools & Aquatic Structures

A residential **swimming pool, hot tub, swim spa, portable pool** and/or **wading pool**, or other similar structures may be permitted as an accessory use on residential property subject to the following conditions:

- a) No written permit is required from the Town for the temporary placement of a **wading pool**, as defined by the Regulations, on condition that the wading pool is drained of all water when not in use or when unattended by a person responsible for the property.
- b) A **portable swimming pool**, as defined by the Regulations, must be drained of all water when not in use or when unattended by a person responsible for the property.
- c) A detached indoor **swimming pool** shall be regulated in the same manner as if it were an accessory building provided by sections 5.2 and 5.3 of these Regulations and any indoor swimming pool shall be constructed so that the pool bottom lower than the subgrade foundation elevation of any building within 5m of the pool.
- d) An indoor **swimming pool, swim spa, or hot tub** inside a dwelling or within a detached accessory building, shall be designed and constructed in accordance with any requirements established by the latest editions of the National Building Code of Canada, Plumbing Code of Canada, Canadian Electrical Code, as adopted by the authorities having jurisdiction over those codes.
- e) An in-ground **swimming pool** shall be constructed so that the pool bottom is lower than the subgrade foundation elevation of any building within 5m of the pool.
- f) The separation distance between an in-ground **swimming pool** and any adjacent building(s) shall consider any lateral loads imposed on soils between the pool and the foundation(s) of those building(s).

- g) An outdoor **swimming pool** may be located in the rear yard of a residential property such that it is a minimum of 2m from any property boundary.
- h) An outdoor **swimming pool, portable swimming pool, swim spa, or hot tub** may be located in the side yard of a residential property where it is setback at least 2m more than the established front building line on the property and that it is a minimum of 2m from any property boundary other than the front lot line.
- i) Lights used to illuminate any **swimming pool, portable swimming pool, swim spa or hot tub** shall be arranged and shaded so that light does not directly shine onto adjacent properties or public areas.
- j) A **swimming pool** shall be enclosed by a fence constructed in accordance with the *Conception Bay South Fence Regulations*.
- k) A **swim spa or hot tub** shall be enclosed by a fence constructed in accordance with the *Conception Bay South Fence Regulations*, or be equipped with a locking cover satisfactory to the Town, and which cover shall be closed and locked when the swim spa or hot tub is not in use or when unattended by a person responsible for the property.
- l) The cumulative lot coverage for all **swimming pools, portable swimming pools, swim spas and hot tubs** on a single lot shall not exceed 6.0% of the lot area. **Wading pools** are exempt from the cumulative lot coverage calculation.
- m) No **swimming pool, portable swimming pool, swim spa or hot tub** shall encroach upon any easement.
- n) No **swimming pool, portable swimming pool, swim spa or hot tub** shall be placed over any existing on-site septic system.
- o) No **swimming pool, portable swimming pool, swim spa or hot tub** shall be drained into a municipal sanitary sewer system nor onto an adjacent private property.
- p) Before any water from a **swimming pool, portable swimming pool, swim spa or hot tub** is discharged or drained to the environment, a natural, manmade, or municipal storm water system, the water shall be de-chlorinated, or otherwise filtered and / or treated so as to prohibit the deposition of deleterious substances into water frequented by fish, or to any place, under any conditions, where that discharge may enter waters frequented by fish.
- q) Where any proposed structure under this section includes electrical or plumbing components, other than CSA approved

or ULC listed elements that require no electrical or plumbing modifications, electrical permits and certifications are required from Digital Government and Service NL, and an appropriate permit from the Town will be required reflective of the necessary plumbing work.

- r) An above ground **swimming pool** or **portable swimming pool** that has been approved by the Town through issuance of a written permit that is disassembled and stored annually will not require further or annual permits where the pool size, depth and location does not change. Should an above ground **swimming pool** or **portable swimming pool** not be installed for two consecutive years, the approval and permit shall be considered lapsed and a new application would be required prior to installation of any above ground **swimming pool** or **portable swimming pool** at the property.
- s) Any other condition(s) on development approval or a permit as may be reasonably imposed by the Town in consideration of the specific circumstances of the property and immediate surroundings where the **swimming pool**, **portable swimming pool**, **swim spa** or **hot tub** will be placed.
- t) Where there is conflict between this section and any other section of these Regulations, the more stringent requirement shall prevail.

6. All other sections of the Conception Bay South Development Regulations not referenced in this amendment retain their current wording.