

**TECHNICAL SAFETY BULLETIN: Access Control at Public and Semi-Public
Recreational Water Facilities throughout Manitoba**

The *Swimming Pools and Other Water Recreational Facilities Regulation (MR 132/97)* regulates public and semi-public swimming pools, whirlpools and other water recreational facilities in Manitoba. This Regulation can be found on our department's website at https://web2.gov.mb.ca/laws/regs/current/_pdf-regs.php?reg=132/97. It is recommended that operators of these facilities keep a copy of the *Regulation* available on site for reference.

The *Regulation* provides requirements regarding access control relating to swimming pools and other water recreational facilities throughout Manitoba. The access requirements ensure limited public access to facilities after posted operating hours. The information outlined in this bulletin, and in the Regulation is intended to prevent injury and/or deaths in recreational water facilities attributed to unauthorized, after hours access to these facilities. In Manitoba, there have been recent cases to illustrate the critical importance of having access control and fencing that meets minimum requirements:

- In 2017, a death associated with drowning occurred in a hotel courtyard pool
- In 2019, an incident where an individual who gained access to a pool after hours became a paraplegic after injuring themselves.

Outdoor Swimming Pools and Wading Pools

All outdoor swimming pools, *whether they be public or semi-public*, must be enclosed by a fence or other barrier that meets the requirements of *Section 15* of the *Regulation*, which states:

Fences and Access

15(1) Subject to subsections (4) and (5), no person shall operate an outdoor swimming pool or wading pool unless the facility is enclosed by a fence or other barrier that

- (a) Has a minimum vertical height of 1.8m;***
- (b) Is constructed so that access to the pool cannot be gained through or under it;***
- (c) Has a lockable gate at least 1.8 m in height through or under which access to the pool cannot be gained when closed;***
- (d) If constructed of chain link material has a mesh size that does not exceed 5.5 cm and a wire size of number 9 gauge or more; and***
- (e) If constructed of material other than chain link material, the outside surface of the fence or gate is sufficiently smooth so as not to provide foot or toe holds***

15(2) No person shall operate an outdoor swimming pool or wading pool unless
(a) the gate is tightly closed and locked at all times the pool is not in operation; and
(b) the fence and gate are maintained in good repair.

15(3) No person shall fill an outdoor swimming pool or wading pool until the fence and gate required by subsection (1) are erected.

15(4) Notwithstanding subsection (1), a fence or barrier is not required for a whirlpool or wading pool where

- (a) the pool is completely drained after operating hours; and**
- (b) an attendant personally supervises**
 - (i) the draining of the pool until it is completely empty of water, and**
 - (ii) the filling or refilling of the pool.**

15(5) Notwithstanding subsection (1), where access to an outdoor swimming pool or wading pool is adequately restricted by means other than a fence or barrier, the operator may be exempted from the requirements of this section subject to such terms and conditions as may be specified on the annual operating permit.

It is important to note that the *Regulation* defines a swimming pool as an artificially constructed basin, lined with concrete, fibreglass, vinyl or similar material in which persons can swim, wade or dive and which has a water depth greater than 60 cm, and *includes a public swimming pool, semi-public swimming pool, whirlpool and receiving basin* but does not include a modified pool, public non-conforming pool or wading pool

Therefore, any facility operating an outdoor swimming pool or wading pool must erect a fence or other barrier having a minimum of 1.8 meters in height, as measured at the exterior of the barrier from the finished grade to the top of the barrier; and must be provided with a self-closing lockable gate, 1.8 m in height. The fence must also not encroach on the 1.3 m unobstructed deck space required around the pool.

If a pool facility was built prior to the current regulation coming in to effect, the facility must still comply with the *Regulation* with respect to the fencing. *Section 2(2)* of the regulation states:

2(2) The operator of a swimming pool or other water recreational facility operated prior to the coming into force of this regulation and amendments thereto is not required to make any structural, mechanical or electrical change to meet the requirements of this regulation **except that the swimming pool or facility shall meet the requirements of subsections 8(2) and (3) respecting hazards, section 9 respecting gas chlorination, **section 15 respecting fencing and access**, section 16 respecting recirculation and water quality and section 18 respecting whirlpools.**

Hotels or Resorts with Outdoor Pools in Centre Courtyards

Where guest rooms or cabins in some facilities have direct access to the pool area located in a central courtyard without any barriers to prevent access to the pool outside normal operating hours, the operators must install a fence or some other physical barrier for preventing access to the pool area outside posted operating hours.

Indoor Public Swimming Pools

The operator of an indoor public swimming pool shall ensure that all entrances to the pool area are securely locked or otherwise secured when the pool is not in operation or under the supervision of the required number of lifeguards and assistant lifeguards.

Indoor Semi-Public Swimming Pools

Section 29(1) of the *Regulation* discusses access control for *indoor* semi-public swimming pools and states:

Access Control

29(1) The operator of a semi-public swimming pool shall take all reasonable measures to ensure that the pool is not used for swimming, wading or diving outside of posted operating hours.

Although this section does not discuss the specific measures to be taken, effective measures must be taken to prevent access of unauthorized people in the pool area outside posted operating hours.

Reasonable measures to prevent access to the pool area may include, but not be limited to, electronic or magnetic key locks or other devices installed on doors leading to the pool area to prevent access area.

Where hotels have room entrances and doorways leading directly to the pool area, the operators must install barriers that do not allow access to the pool area after hours. This may require the installation of a fence or other physical barrier with a self-closing lockable gate preventing patrons' access to the pool from the hotel rooms.

NOTE: Any steps taken to prevent access to the pool after hours should be discussed with the area Public Health Inspector (PHI). Also, the operator is responsible for demonstrating to the PHI that the measures can be deployed effectively after hours or whenever the pool is closed for any reason. E.g. If magnetic or electronic key locks cannot be manually deactivated by the operator, additional manual locks should be employed.

These requirements are in place to reduce and eliminate any potential for death or injury from occurring in pool facilities.