



Report of the Auditor General of the Ville de Montréal to the City Council and to the Urban Agglomeration Council

For the Year Ended December 31, 2012

Residential Swimming Pool Safety Regulations

5.8

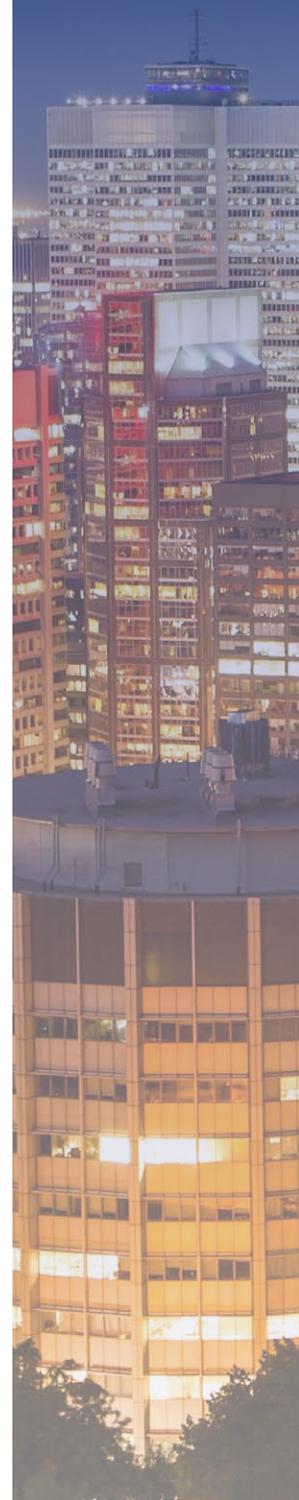


Table of Contents

1. Introduction	327
2. Audit Scope.....	328
3. Findings and Recommendations	328
3.1. Compliance of the Permit-Issuing Process and Enforcement of Regulatory Provisions	328
3.2. Mechanisms for Identifying Non-Compliant Installations.....	345
3.3. Follow-Up on Notices of Non-Compliance	347
3.4. Mechanisms for Raising Public Awareness	356
3.5. Accountability	362

List of Acronyms

DAUSE	Direction de l'aménagement urbain et des services aux entreprises	SGIS	spatial geographic information system
MELS	Ministère de l'Éducation, du Loisir et du Sport		

5.8. Residential Swimming Pool Safety Regulations

1. Introduction

A 2010 report¹ produced by the Ministère de l'Éducation, du Loisir et du Sport (MELS) indicates that between 2000 and 2008 there were 80 residential swimming pool drownings in Québec, or an average of nine per year. This type of drowning represents 12% of all water-related deaths and does not include the many near-drownings requiring hospitalization that occur every year. Statistics put the number of residential swimming pools in the province at close to 300,000 during this period. According to a count done by the Ville de Montréal (the city) in 2004, there were nearly 33,000 residential swimming pools in Montréal, which was made up of 27 boroughs at the time.

Nearly a third of residential swimming pool drowning victims are children under 5 years of age. The main cause of these deaths is the lack of appropriate safety equipment around the pool. This is exacerbated by the fact that, in most of these cases, children are left unattended near the water while the person supervising them is momentarily absent or distracted.

In an attempt to reduce the number of residential swimming pool drownings, the Government of Québec passed the *Residential Swimming Pool Safety Act*² (the Act) on October 25, 2007. Pursuant to its powers under this new Act, the Government then adopted the *Residential Swimming Pool Safety Regulation*³ (the Provincial Regulation) on June 23, 2010. It took effect on July 22, 2010. This Provincial Regulation sets forth a series of standards aimed at increasing the safety of these installations, including the pool itself (e.g., minimum height of pool walls, presence of ladders equipped with a safety gate), the enclosure to restrict pool access and the features and location of all devices used in pool operations.

Since the Provincial Regulation came into force on July 22, 2010, all Montréal residents have been required to obtain a municipal permit to build, install or replace a swimming pool or to erect a construction allowing or preventing access to a swimming pool (section 9 of the Provincial Regulation). Under the Act, municipalities are responsible for ensuring compliance with this regulation. In Montréal, this responsibility falls on the boroughs, which

¹ *Faits saillants sur les noyades et les autres décès liés à l'eau au Québec de 2000 à 2008 – Édition 2010*, Trois-Rivières, MELS – Direction de la promotion de la sécurité, 2010, 19 pages.

² RSQ, chapter S-3.1.02.

³ *Gazette officielle du Québec. Part 2*, Vol. 142, No. 27, July 7, 2010, pp. 2805-7.

under section 131 of the *Charter of Ville de Montréal*⁴ hold the authority to issue certificates of authorization and permits related to swimming pools.

2. Audit Scope

The purpose of our audit was to review the measures undertaken by the city business units responsible for ensuring compliance with the regulatory and legislative provisions governing residential swimming pool safety. Furthermore, we also sought to examine the preventive measures adopted by these business units to raise residential pool owners' awareness about the safety standards prescribed in the Provincial Regulation.

The audit, which began in the fall of 2012, dealt primarily with 2011 and 2012, but it also took into account information sent and communicated to us up until February 22, 2013. For certain aspects, data from previous years were also considered. Our audit focused on three boroughs:

- Ahuntsic-Cartierville borough: Direction du développement du territoire;
- Pierrefonds-Roxboro borough: Direction de l'aménagement urbain et des services aux entreprises (DAUSE);
- Rivière-des-Prairies–Pointe-aux-Trembles borough: Direction de l'aménagement urbain et des services aux entreprises (DAUSE).

3. Findings and Recommendations

3.1. Compliance of the Permit-Issuing Process and Enforcement of Regulatory Provisions

To comply with the standards outlined in the Provincial Regulation, residents must apply to their borough for a permit⁵ to build, install or replace a swimming pool or to erect a construction allowing or preventing access to a swimming pool.

The Provincial Regulation concerns any permanent or temporary artificially constructed outdoor basin intended for swimming that has a water depth equal to or greater than 60 centimetres and to which the *Regulation respecting safety in public baths*⁶ does not

⁴ RSQ, chapter 11.4.

⁵ For the purposes of this audit report, we will use the term "permit" as specified in the Provincial Regulation, although Pierrefonds-Roxboro and Rivière-des-Prairies–Pointe-aux-Trembles boroughs use the term "certificate of authorization."

⁶ RRQ, chapter S-3, r. 3.

apply. It excludes whirlpools and hot tubs whose capacity does not exceed 2,000 litres. This covers the following categories:

- Aboveground pool: a hard-sided swimming pool installed permanently on the ground surface;
- Portable pool: a soft-sided swimming pool, inflatable or not, designed to be installed on a temporary basis;
- Inground or semi-inground pool: an artificially constructed outdoor basin intended for swimming that is partially or completely buried under the ground surface.

The Provincial Regulation does not apply to pools installed before the date it came into force (July 22, 2010) or pools acquired but not installed before this date, provided that they were installed no later than October 31, 2010. When any such pool is replaced, the new pool must adhere to the standards in the Provincial Regulation. The Provincial Regulation also establishes fines for swimming pool owners in breach of a provision.

The safety standards set out in the Provincial Regulation aim to control and protect access to swimming pools. They include the following:

- All inground and semi-inground pools must be equipped with a ladder or steps to enter and exit the water;
- All swimming pools must be surrounded by an enclosure to restrict access. This enclosure must:
 - prevent the passage of a spherical object 10 centimetres in diameter,
 - be at least 1.2 metres high,
 - have no fixture, projection or open parts enabling it to be climbed;
- All gates that form part of an enclosure must be equipped with a self-closing and self-latching passive security device installed on the inside of the enclosure in the upper part of the gate;
- Aboveground pools must have a wall height of at least 1.2 metres from the ground at any point, and portable pools must have a wall height of 1.4 metres or more;
- Any device linked to the operation of a swimming pool must be installed more than 1 metre away from the pool wall. Furthermore, the pipes linking the device to the swimming pool must be flexible and not be installed in a way that facilitates the climbing of the pool wall or the enclosure, as the case may be.

As a result, prior to issuing a permit, borough authorities must obtain all the information that confirms that an installation will be in compliance with the provisions of the Provincial Regulation or a stricter borough standard, if one is in place. Well before new legislative and regulatory provisions concerning residential swimming pool safety were implemented, a number of boroughs had already adopted certain safety measures, many of which were

covered in borough by-laws on fences. When the new Provincial Regulation came into force in 2010, it contributed to enhancing the safety of residential swimming pool installations, but section 3 of the Act does not prevent a borough from introducing standards that are even more stringent.

The following pages contain the results of our audit with respect to compliance with the permit-issuing process. For each of the boroughs we visited, our observations are based on a review of a sample of four swimming pool permits issued in 2011 and 2012 (two permits each year). We deliberately chose two permits issued for inground pools and two permits for aboveground pools to better assess the degree of compliance with the regulatory requirements specific to each.

3.1.1. Ahuntsic-Cartierville Borough

3.1.1.1. Processing of Permit Applications and Existing By-Laws

3.1.1.1.A. Background and Findings

It is important to point out that Ahuntsic-Cartierville borough has not modified its by-laws for issuing permits and that the term “permit” has been retained. This borough adheres to the provisions of the *By-law concerning the construction and conversion of buildings*.⁷ More specifically, article 34 of this by-law indicates the information and documentation that must be submitted with a permit application (e.g., description of the planned work, estimated value of the work, drawings and location certificate).

Accordingly, in this borough, residents who wish to install a swimming pool must first submit a permit application to the borough office, along with all the required documents.

A permit clerk with the Division urbanisme, permis et inspection of the Direction du développement du territoire is responsible for administering the permit-issuing process by:

- Ensuring that all the required documents are included with the application;
- Reviewing the permit application to confirm whether the proposed installations adhere to the *Residential Swimming Pool Safety Regulation* or other stricter standards contained in a by-law (e.g., the fence by-law);
- Entering the application in the computer system used for this purpose, the Gestion du territoire – Permis system;

⁷ City council, by-law 11-018, October 24, 2011.

- Determining the cost of the permit, in accordance with the list of rates in effect;
- Issuing the permit once the file is in order and the corresponding fees have been paid.

Once the permit has been issued, an inspector is assigned to the file and dispatched to visit the premises to ensure that the work related to the installation of the swimming pool is compliant. The inspector then enters this information into the Gestion du territoire – Permis computer system. If everything is found to be acceptable, the file is closed. However, if any of the components do not meet regulatory requirements, the inspector must:

- Provide a notice of non-compliance, informing the swimming pool owner of the corrective measures to implement to become compliant within a set timeframe;
- Follow up to ensure the corrective action stipulated in the notice of non-compliance is carried out;
- Initiate the procedures involved in issuing a statement of violation in the case of an uncooperative owner.

In addition to the Provincial Regulation, the borough must enforce the provisions of its by-law on fences as they apply to swimming pool safety. It is therefore more laborious to ensure adherence to both sets of provisions in their entirety.

Our audit revealed that most of the provisions in the Provincial Regulation have been integrated into the borough's fence by-law. Incidentally, the fall 2011/winter 2012 edition of the borough's newsletter⁸ published a report on the new fence by-law,⁹ which was adopted in response to the new provincial standards for residential swimming pool safety. Although this is a legitimate decision, we observed when comparing the Provincial Regulation and the borough's new fence by-law that some provisions of the former had not been incorporated into the latter. For one, section 2 of the Provincial Regulation, which specifies that all *"inground and semi-inground pools must be equipped with a ladder or steps used to enter or exit the water,"* is left out of the fence by-law. The same applies to section 8 of the Provincial Regulation: *"Every installation intended to allow or prevent access to the swimming pool must be kept in good working order."* Based on the information obtained from the people with whom we met, this seems to be an oversight. Consequently, in order to avoid any potential confusion for borough employees and residents alike on matters related to the regulations in effect, we believe that corrective action is called for.

⁸ [TRANSLATION] *Ahuntsic-Cartierville Newsletter*, Fall 2011/Winter 2012, Vol. 8, No. 2, p. 25.

⁹ Borough council, by-law RCA11 09008 entitled *By-law modifying the by-law concerning fences (Consolidated by-laws of the Ville de Montréal, chapter C-5) concerning the borough of Ahuntsic-Cartierville*, October 3, 2011.

3.1.1.1.B. Recommendation

We recommend, should the Direction du développement du territoire in Ahuntsic-Cartierville borough still wish to use a single set of provisions on residential swimming pool safety, that it take the necessary measures to ensure the borough's fence by-law incorporates all of the provisions contained in the *Residential Swimming Pool Safety Regulation* to avoid any confusion or oversight in terms of compliance.

Business unit's response:

[TRANSLATION] The [TRANSLATION] Urban planning by-law for Ahuntsic-Cartierville borough¹⁰ is currently being updated (first reading and adoption by the borough council expected in May 2013) to incorporate a provision on devices that allow users to enter and exit swimming pools, which could not be incorporated into the already amended fence by-law because the devices are not fences per se.

The provision dealing with the maintenance of pool components (including fences) is currently covered in the By-law concerning the construction and conversion of buildings, which gives our inspectors a wide berth for taking action in circumstances where insufficient maintenance poses a public safety threat.

All of the aspects of the Provincial Regulation will therefore be covered at the municipal level once the amended [TRANSLATION] Urban planning by-law for Ahuntsic-Cartierville borough is adopted.

It is important to note that, in the meantime, since our inspectors are authorized to enforce the Provincial Regulation, public safety has never been compromised. (Planned completion: May 2013)

3.1.1.2. Enforcement of Regulatory Provisions

3.1.1.2.A. Background and Findings

Regarding the process leading up to the issuance of a permit by the permit clerk, our review of the files on the four permits in our sample shows that the information was not always compiled in a way that makes it possible to trace the evidence showing that compliance with the safety standards outlined in the Provincial Regulation was checked. In fact, only one of the four files was complete in this regard.

Given that a permit is issued before swimming pool installation work is done, it is important to obtain all the documentation and information necessary for the permit clerk to analyze

¹⁰ Borough council, by-law 01-274, August 31, 2012.

the file and carry out the required checks to ensure compliance with the applicable regulations. These checks are all the more important in that they make it possible to notify residents in a timely manner of any violations observed before work gets under way and thus save them the unnecessary expense of subsequent corrective measures. Accordingly, we feel it is advisable to compile the documentation in a way that supports all of the regulatory aspects that have been checked before the permit is issued.

In this regard, we observed in two of the four files we examined that a regulatory analysis sheet had been used by one of the clerks to assess the application. The title on the sheet reads [TRANSLATION] “POOLS 01-274 Section 347.” It features a checklist with the various regulatory requirements related to aspects such as the pool location (e.g., presence of overhead wires, easements, 1-metre buffer between the side of the pool and the fence), fences (e.g., 1.2-metre minimum height) and devices (e.g., location of a heat pump in relation to the lot line). We nevertheless noticed that the sheet did not bear the borough logo and was not signed by the employee who filled it out. Moreover, it was not necessarily up to date when the corresponding permits were issued. In particular, we noted that certain fence-related items were based on outdated standards.

According to the information obtained from the people with whom we met, it appears that this analysis sheet is a personal work tool developed by one of the employees and in no way represents a formal practice in place at the borough’s Direction du développement du territoire. For the two other files in our sample, although the permit clerk created a file using the Gestion du territoire – Permis computer system, as is the case for all issued permits, this file did not contain any evidence or supporting documentation that confirmed that the necessary checks had been done and that the application was complete and in order.

Although the analysis sheet in question was not necessarily comprehensive and up to date in terms of the regulatory standards to be checked, it is still a very useful work tool that would enable clerks to ensure they have reviewed all of the applicable regulatory provisions and show the work done before the requested permit is issued. The sheet could even be enhanced with the addition of a list of the required supporting documents. We believe that the borough would benefit from adopting an official regulatory analysis sheet covering all of the standards related to the safety of residential swimming pools and having all of the employees involved in the process use it.

In addition, since the inspector, like the permit clerk, must refer to the content of the regulatory provisions in effect to ensure the compliance of on-site installations, we feel that an analysis sheet (a checklist) would be just as useful and relevant, enabling the inspector

to document and record the evidence of the various items inspected, as well as conclusions as to whether or not installations are in compliance.

At this stage in the process, we also audited the fees charged for obtaining a permit to determine whether they matched the rates in effect and to ensure that they had been collected before a permit was issued. The borough calculates the corresponding amounts based on the city's by-law on fees.¹¹ We observed that these fees were properly collected on the same day as the permit applications were submitted and that they were consistent with the list of rates in effect.

3.1.1.2.B. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough take the necessary measures to officially implement a regulatory analysis sheet (checklist) that:

- **Lists all the applicable standards related to residential swimming pool safety and possibly the supporting documents required for the permit application;**
- **Is used by all the employees involved in the permit application process and systematically kept on file;**

so that permit clerks and inspectors can document and keep on file evidence of the various aspects that have been checked or inspected, as well as their conclusions as to whether or not installations are compliant.

Business unit's response:

[TRANSLATION] A checklist has been produced by an architectural technician.

It is currently being reviewed by the senior permit clerk and the head of the Section de l'inspection.

The layout will be finalized and the checklist incorporated into the standard practices of permit clerks and inspectors by May 1, 2013.

*After an inspection is carried out, the completed checklist will be scanned and incorporated into the electronic permit system record. **(Planned completion: May 2013)***

¹¹ In 2011: *By-law concerning fees (Fiscal 2011) (10-029)*, city council, December 20, 2010.
In 2012: *By-law concerning fees (Fiscal 2012) (11-037)*, city council, December 19, 2011.

3.1.1.3. Installation Inspection

3.1.1.3.A. Background and Findings

After the permit has been issued, the next step in the process is to assign an inspector to visit the premises and ensure that the swimming pool installation is compliant. We therefore extended the scope of our audit of the four permits in our sample to include the information in the records contained in the computer system (Gestion du territoire – Permis) concerning this step. The results of our analysis show that, for two of the four selected files, the first inspection was conducted between 26 and 58 days following the date the permit was issued. However, for the two other files, we noted that, in one case, it took 135 days (nearly 4.5 months) before the first inspection was carried out. In the other case, as of the date of our audit (November 28, 2012), there was no evidence in the file that the inspector had visited the premises for a project for which a permit had been issued on May 23, 2013 (189 days or a little over 6 months before).

In addition, although it is possible to enter the estimated start and end date of the pool installation work in the computer system, we noticed that this information was not included in any of the files. This makes it more difficult to determine a suitable moment for the on-site inspection.

We are aware that various circumstances, sometimes out of the borough's control, can lead to delays (e.g., when a resident does not proceed with an installation right away). However, we consider that following up on the work after the permit has been issued is an important step that should be carried out as quickly as possible to ensure that installations are safe and comply with the necessary regulatory provisions, with a view to minimizing drowning risks. Accordingly, we feel it would be advisable for the administration to use a tool it deems appropriate to track the progress of required inspections once a permit has been issued so that these activities are not overlooked and non-compliant installations are identified in a timely manner.

3.1.1.3.B. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough determine the tool to be used to keep track of the inspections that need to be carried out once a permit has been issued so that these activities are not overlooked and non-compliant installations can be identified in a timely manner.

Business unit's response:

[TRANSLATION] The checklist mentioned in the response to the recommendation 3.1.2.2.B will ensure compliance of all installations throughout the permit issuance and on-site inspection process. (Planned completion: May 2013)

3.1.2. Pierrefonds-Roxboro Borough

3.1.2.1. Processing of Permit Applications and Existing By-Laws

3.1.2.1.A. Background and Findings

Pierrefonds-Roxboro borough residents who wish to install a residential swimming pool must apply to the borough office for a permit. This application is processed by a permit clerk working for the Division de la construction et de l'occupation of the DAUSE. The clerk must:

- Ensure all the required application documents have been provided by the applicant;
- Enter the application in the computer system used for this purpose (Gestion du territoire – Permis).

Once the file is considered complete, it is sent to a DAUSE inspector whose conclusions will also be incorporated into the Gestion du territoire – Permis system. The inspector is responsible for:

- Reviewing the permit application and confirming whether the proposed installations adhere to the *Residential Swimming Pool Safety Regulation* or other standards outlined in a borough by-law (e.g., the *Zoning by-law*¹²);
- Determining the cost of the permit, in accordance with the list of rates in effect;
- Issuing the permit once the file is in order and the corresponding fees have been paid by the applicant;
- Inspecting the premises, after the permit is issued, to ensure that the installation work is compliant;
- Closing the file once everything is in order; otherwise:
 - issuing a notice of non-compliance, informing the swimming pool owner of the corrective action to be taken within an established timeframe,
 - following up to ensure the corrective action stipulated in the notice of non-compliance is carried out,
 - initiating, as necessary, the procedures involved in issuing a statement of violation to any uncooperative owners.

¹² Borough council, by-law CA29 0040, June 7, 2010.

In addition to the Provincial Regulation, there are specific provisions contained in the borough's *Zoning by-law*¹³ on such aspects as fence height and the location of mechanical equipment (filters, heaters, etc.).

Regarding the documentation and information to be provided when applying for a permit to install a residential swimming pool, there are two by-laws to take into account. If the person filing for the permit is a resident of Pierrefonds, the *By-law concerning permits and certificates*¹⁴ applies. If the person is a resident of Roxboro, the process is subject to the city's *By-law concerning the construction and conversion of buildings*.¹⁵ Although there is a *By-law concerning permits and certificates*¹⁶ in place in Roxboro, it refers to the city by-law (No. 11-018) for all applications involving a swimming pool. In comparing these by-laws, we noted that in addition to the usual information (e.g., description of the planned work, estimated value of the work, drawings), the Pierrefonds by-law (No. 1051, article 42) is more demanding in terms of the information to be provided by the pool owner. For example, article 42, paragraph 4 indicates that applications must be accompanied by the following:

- the type of filtration and chlorination, the pipes as well as the manufacturer's recommendations;
- the diameter and location of wastewater draining pipes.

Under these by-laws, there are therefore two sets of procedures at play for residents of the same borough. Therefore, in order to avoid any potential confusion in the enforcement of these provisions and ensure that all residents of the borough receive equal treatment, we believe that the permits and certificates by-laws for Pierrefonds (No. 1051) and Roxboro (No. 93-558) should be harmonized.

3.1.2.1.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough undertake the necessary steps to harmonize the provisions in the permits and certificates by-laws currently in effect in Pierrefonds (No. 1051) and Roxboro (No. 93-558) in order to avoid potential confusion in their enforcement and ensure that all borough residents receive equal treatment.

¹³ Borough council, by-law CA29 0040, June 7, 2010, articles 138, 143, 145 and 146.

¹⁴ Borough council, by-law 1051, October 10, 1989, article 42.

¹⁵ City council, by-law 11-018, October 24, 2011, article 34.

¹⁶ Borough council, by-law 93-558, April 5, 1993.

Business unit's response:

[TRANSLATION] Harmonization of Pierrefonds and Roxboro's permits and certificates by-laws: they will be repealed and replaced by the administration by-law, so that implementation rules are identical across the borough. (Planned completion: August 2013)

3.1.2.2. Enforcement of Regulatory Provisions

3.1.2.2.A. Background and Findings

In an attempt to make it easier to administer the regulatory provisions related to residential swimming pool safety, we observed that the DAUSE required the use of an analysis sheet bearing the title [TRANSLATION] "Pool Inspection," featuring a checklist for each of the applicable items derived from the Provincial Regulation as well as the borough's *Zoning by-law*. Based on the information we obtained and our analysis, we determined that this sheet is being used primarily when inspectors visit the premises, i.e., after a permit has been issued, to check that installations are in order. The information on this sheet includes the owner's address, type of swimming pool, name of the inspector, date of inspection and whether or not a notice of non-compliance has been issued and, if so, the amount of time granted to the owner to carry out the required corrective action.

This analysis sheet strikes us as being a very relevant and useful tool. During our audit of the four files in our sample, however, we were not always able to find evidence that it was being used by the inspectors assigned to the files. In fact, in three out of the four files we examined, the analysis sheet was not used.

Furthermore, in order to be able to assess the comprehensiveness of the regulatory standards that appear in the analysis sheet to be used, we compared these standards with those contained in the Provincial Regulation as well as those in the borough's *Zoning by-law*. This analysis revealed that all of the standards had been integrated into the checklist with the exception of two aspects of the Provincial Regulation:

- Article 7, paragraph 2: *"The pipes linking the device to the swimming pool must be flexible and not be installed in a way that facilitates the climbing of the pool wall or, as the case may be, the enclosure."*
- Article 9, paragraph 3: *"During the time of the work, the person to whom the permit [...] is issued must take any temporary measures to control access to the pool. [...]"*

Furthermore, in reviewing the files, we observed that there was not always evidence that the information and documentation that were supposed to be analyzed had all been received before the permit was issued.

We feel it is important that all the documentation and information required to analyze and confirm whether installations comply with requirements be received before a permit is issued. Accordingly, we believe it may be useful to remind those involved in the process about the importance of using the [TRANSLATION] “Pool Inspection” analysis sheet and improving it further to include a section containing a list of all the information and documentation (drawings, description of the planned work, estimated value of the work, manufacturer’s documentation) that must accompany the permit application. This would enable the permit clerk to ensure from the start of the process that the file is complete so that the inspector can then assess the application with a view to issuing the permit and, as appropriate, promptly notify residents of any violations observed before work gets under way and thus save them the unnecessary expense of subsequent corrective measures.

3.1.2.2.B. Recommendation

We recommend that the Direction de l’aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough take the necessary measures to ensure the [TRANSLATION] “Pool Inspection” analysis sheet is:

- **Reviewed to incorporate all of the provisions in the *Residential Swimming Pool Safety Regulation*;**
- **Improved, by inserting a section containing a list of all the information and documentation that must accompany a permit application;**
- **used by all of the employees involved in the process and systematically kept in the corresponding file;**

so that employees involved in the swimming pool permit application and issuance process can keep track of what has been checked and note their findings as to whether or not the designated installations are in compliance.

Business unit’s response:

[TRANSLATION] The standards outlined in article 7, paragraph 2, and article 9, paragraph 3, of the Residential Swimming Pool Safety Regulation will be added to the checklist used by inspectors. (Planned completion: May 2013)

Once the administration by-law has been adopted, the documentation requirements will be reviewed and harmonized on a borough-wide basis. A section will also be added to the analysis sheet to incorporate the required information. (Planned completion: August 2013)

Inspectors will also use and fill out the analysis sheet as they review the application for a certificate of authorization in order to ensure project compliance. We will continue to fill out an analysis sheet for each inspection. (Planned completion: May 2013)

3.1.2.3. Installation Inspection

3.1.2.3.A. Background and Findings

The final stage in the process in the on-site inspection, during which an inspector ensures that the work involved in installing the swimming pool is in order after the permit is issued. Our audit of the selected files in this matter revealed the following:

- For one of the four files, for which a permit was issued on April 25, 2012, we did not find evidence of any kind of on-site inspection, even though our audit took place on February 12, 2013 (i.e., 293 days, or almost 10 months, later);
- For the three other files we analyzed, we noted that the inspection was performed within a timeframe varying between 36 and 137 days (4.5 months).

In addition, although the computer system being used is programmed to record the planned start and end date for the swimming pool installation work, we noted that this feature was not used in two out of the four files. As a result, it is more difficult to plan an appropriate time for the inspector to visit the premises.

We are aware that various circumstances, sometimes out of the borough's control, can lead to delays (e.g., when a resident does not proceed with an installation right away). However, we consider that following up on the work after the permit has been issued is an important step that should be carried out as quickly as possible to ensure that installations are safe and comply with the necessary regulatory provisions, but mostly with a view to minimizing drowning risks. Accordingly, we feel it would be advisable for the DAUSE to use a tool it deems appropriate to track the required inspections once a permit has been issued so that these activities are not overlooked and non-compliant installations are identified in a timely manner.

Finally, we also reviewed the fees for obtaining permits to ensure that they were consistent with the list of rates in effect and that they were collected before the corresponding permits were issued. We used the borough's by-law on price determination¹⁷ for this purpose. Our

¹⁷ For 2011: *By-law on the price determination of various goods, activities and municipal services for the fiscal year 2011*, CA 29 0050, borough council, December 6, 2010.
For 2012: *By-law on the price determination of various goods, activities and municipal services for the fiscal year 2012*, CA 29 0058, borough council, December 5, 2011.

audit showed that all fees had been paid on the day the applications were submitted and matched the amounts indicated in the list of rates.

3.1.2.3.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough determine the tool to be used to keep track of inspections that need to be carried out after a permit is issued to ensure these activities are not overlooked and non-compliant installations are detected in a timely manner.

Business unit's response:

[TRANSLATION] The Oracle permit system is the tool of choice for tracking certificates of authorization issued and for producing reports. The Excel spreadsheet allows us to produce a detailed report to follow up on the status of statements of violation in circulation and to be issued. (Planned completion: May 2013)

3.1.3. Rivière-des-Prairies–Pointe-aux-Trembles Borough

3.1.3.1. Processing of Permit Applications and Existing By-Laws

3.1.3.1.A. Background and Findings

One of the borough's by-laws, namely the *[TRANSLATION] By-law concerning certificates of occupancy and certain permits in the borough of Rivière-des-Prairies–Pointe-aux-Trembles*,¹⁸ specifies that residents who wish to build or install a swimming pool must submit a permit application, along with the required information and documentation, to the borough office.

A permit clerk with the DAUSE's Division des permis et des inspections is responsible for processing the application, reviewing the file and issuing the permit. This entails:

- Ensuring all the required application paperwork is received;
- Reviewing the permit application and confirming whether the proposed installations adhere to regulations concerning residential swimming pool safety or other provisions set forth in the *[TRANSLATION] Zoning by-law for the borough of Rivière-des-Prairies–Pointe-aux-Trembles*¹⁹;
- Entering the application into the Gestion du territoire – Permis computer system;

¹⁸ Borough council, by-law RCA09-C01, October 1, 2009.

¹⁹ Borough council, by-law RCA09-Z01, September 4, 2009.

- Determining the cost of the permit, in accordance with the list of rates in effect;
- Issuing the permit once the file is in order and the corresponding fees have been paid.

Once the permit has been issued, an inspector with the DAUSE is assigned to visit the premises and check whether or not the swimming pool installation work is in order. The inspector then enters this information into the Gestion du territoire – Permis system. If everything is found to be acceptable, the file is closed. If any of the components do not meet regulatory requirements, the inspector must:

- Provide a notice of non-compliance, informing the swimming pool owner of the corrective action to be taken within a set timeframe;
- Follow up to ensure the corrective action stipulated in the notice of non-compliance is carried out;
- Initiate the procedures involved in issuing a statement of violation in the case of an uncooperative owner.

3.1.3.2. Enforcement of Regulatory Provisions

3.1.3.2.A. Background and Findings

We observed that the DAUSE required the use of an analysis sheet entitled [TRANSLATION] “Regulatory Analysis Sheet – Review/Inspection” to make it easier to track compliance with the regulatory provisions related to residential swimming pool safety.

This sheet includes a section featuring a list of information and documentation (e.g., drawings, location certificate, description of planned work) that must be submitted with a permit application. This makes it easier for the permit clerk to make sure the file is complete so that it can be reviewed and, ultimately, a permit can be issued. It also features a checklist with most of the standards covered in the borough’s zoning by-law and the Provincial Regulation, with the exception of the following:

- Section 8: *“Every installation intended to allow or prevent access to the swimming pool must be kept in good working order.”*
- Section 9, paragraph 3: *“During the time of the work, the person to whom the permit [...] is issued must take any temporary measures to control access to the pool [...]”*

This sheet is also used by the inspector assigned to a file to assess the compliance of the swimming pool installation work and is designed to accommodate the inspector’s input.

We feel that this sheet is a very relevant and useful tool. We ascertained that it was used in all four of the files we reviewed, although in one case it was used by the inspector for an

on-site visit but not by the permit clerk who processed the initial application and issued the permit. Apart from that file, for which we saw no evidence that the permit clerk had checked the required information before issuing the permit, the three other files were found to be complete.

We then reviewed the permit application fees to ensure that the amounts charged were the same as the amounts indicated in the list of rates in effect and that they had been collected before the permits were issued. The borough's by-law on rates²⁰ was used to validate this information. Our audit showed that all fees were collected the day permit applications were submitted and were consistent with the list of rates in effect.

3.1.3.2.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Rivière-des-Prairies–Pointe-aux-Trembles borough take the necessary measures so that employees involved in the permit application process can document what they have checked and enter their conclusions as to whether or not installations are in compliance by ensuring that the [TRANSLATION] "Regulatory Analysis Sheet – Review/Inspection" is:

- **Revised to incorporate all of the requirements contained in the *Residential Swimming Pool Safety Regulation*;**
- **Used by all employees involved in the permit application and inspection process.**

Business unit's response:

[TRANSLATION] The [TRANSLATION] "Regulatory Analysis Sheet – Review/Inspection" has been modified to incorporate provisions related to the temporary measures that may be required while work is under way (article 3, paragraph 9, of the Provincial Regulation).

The [TRANSLATION] "Regulatory Analysis Sheet – Review/Inspection" applies to new installations. Since article 8 of the Provincial Regulation requires existing installations to be kept in good working order, we have created an inspection sheet specifically for this purpose. (Completed, March 2013)

²⁰ For 2011: *[TRANSLATION] By-law on rates for the borough of Rivière-des-Prairies–Pointe-aux-Trembles (fiscal 2011)*, RCA10-30038, borough council, December 7, 2010.
For 2012: *[TRANSLATION] By-law on rates for the borough of Rivière-des-Prairies–Pointe-aux-Trembles (fiscal 2012)*, RCA11-30043, borough council, December 6, 2011.

3.1.3.3. Installation Inspection

3.1.3.3.A. Background and Findings

Regarding the step following permit issuance—the on-site inspection to ensure installations are compliant once the work is completed—the results of our audit show that, for the four files we reviewed, the first inspection was conducted within a timeframe of between 63 and 98 days (2 months and a little over 3 months). Although it is possible to enter the estimated start and end date of the pool installation work in the computer system, we noticed that this information was not included in any of the files we analyzed. This makes it more difficult to determine a suitable moment for the inspector to visit the premises.

We are aware that various circumstances, sometimes out of the borough's control, can lead to delays (e.g., when a resident does not proceed with an installation right away). However, we consider that following up on the work after the permit has been issued is an important step that should be carried out as quickly as possible to ensure that installations are safe and comply with the necessary regulatory provisions, but primarily with a view to minimizing drowning risks. In this regard, we learned of a guideline, which was updated by the DAUSE while we were carrying out our audit on December 12, 2012, which stipulates that inspections involving permits issued for the installation of a residential swimming pool or related equipment must be treated as a top priority by inspectors and completed in a timely manner. Consequently, we feel it may also be advisable that the borough use a tool it deems appropriate to track the progress of required inspections once a permit has been issued so that these activities are not overlooked and non-compliant installations are identified in a timely manner.

3.1.3.3.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Rivière-des-Prairies–Pointe-aux-Trembles borough determine the tool to be used to keep track of the inspections that need to be carried out once a permit has been issued so that these activities are not overlooked and non-compliant installations can be identified in a timely manner.

Business unit's response:

[TRANSLATION] Shortly after the Provincial Regulation on swimming pools came into force, the [TRANSLATION] "Residential Swimming Pool Installation Certificate of Authorization" was created in the Oracle – Gestion du territoire system. While following up on these types of projects, inspectors must indicate the anticipated date for the next inspection in the corresponding field. This procedure allows inspectors to generate a specific report based on anticipated inspection dates. Inspectors will

*be required to generate this report every two weeks for monitoring purposes.
(Completed, March 2013)*

3.2. Mechanisms for Identifying Non-Compliant Installations

3.2.A. Background and Findings

Much of the responsibility for ensuring the safety of residential swimming pools obviously falls to the residents who own them. Residents must therefore, in accordance with the Provincial Regulation, apply to their borough for a permit in this regard.

Nevertheless, Montréal's boroughs, in their role as representatives of the government, and in accordance with section 2 of the Act, are responsible for enforcing the Provincial Regulation. They must therefore put mechanisms into place to ensure a certain level of oversight with regard to residents who:

- Did not apply for a permit and whose installations may not meet the safety standards set forth by the government;
- Did not keep appurtenances designed to provide or limit access to a swimming pool in good working order or made non-compliant modifications since their permit was issued.

Bearing this in mind, we took a closer look during our audit at the mechanisms implemented by the boroughs to identify installations that may be in violation of the safety standards outlined in the current Provincial Regulation.

Following this process, we determined that in the three boroughs we audited there was no preventive plan in place to identify non-compliant installations. Based on the information we obtained from the people with whom we met, it would seem that non-compliant installations are generally discovered by chance during on-site inspections carried out for other reasons (e.g., a construction or renovation project) or during an investigation following a resident complaint. There are no statistics kept on these randomly discovered violations. Complaints received in this regard are few in number.

We feel that these detection methods alone may not be sufficient to show that the city has acted with diligence in fulfilling its responsibilities under the Provincial Regulation, the primary aim of which is to reduce drowning risks. Considering that under the *By-law concerning inspections*²¹ municipal authorities are fully entitled to enter any private property to ensure the by-laws for which they are responsible are being observed, we believe that

²¹ City council, by-law 6678, April 2, 1985.

the boroughs should develop mechanisms designed to identify properties with a swimming pool, so they can be incorporated into annual preventive inspection plans.

Our audit revealed the existence of a computer application that may be useful for this purpose, namely the SGIS (spatial geographic information system), which uses aerial photographs to determine the existence of various objects, including swimming pools. This technique was used by Montréal in 2004, when nearly 33,000 swimming pools were identified within in the city. Other means could also be used to achieve this objective (e.g., hiring a group of students to go from street to street to spot and list properties with pools).

3.2.B. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough and the Direction de l'aménagement urbain et des services aux entreprises in both Pierrefonds-Roxboro and Rivière-des-Prairies–Pointe-aux-Trembles boroughs take the appropriate measures to fulfill their responsibilities and ensure compliance with the *Residential Swimming Pool Safety Regulation* by:

- Incorporating activities aimed at promoting residential swimming pool safety within their respective boroughs into annual preventive inspection plans;
- Using mechanisms deemed appropriate to identify the location of residential swimming pools.

Business units' responses:

AHUNTSIC-CARTIERVILLE BOROUGH

[TRANSLATION] One of the borough's construction and planning inspectors will be assigned on a part-time basis to preventive inspections (older files) and detection work as of June 2013.

Detection mechanisms still need to be defined, based on the technologies at our disposal (aerial photography). (Planned completion: June 2013)

Additional funds will be requested in the 2014 budget to provide the Direction du développement du territoire with seasonal resources to carry out prevention work related to residential swimming pools. (Planned completion: Summer 2014)

PIERREFONDS-ROXBORO BOROUGH

[TRANSLATION] A project to hire additional personnel will be submitted to the borough council for the resources necessary to carry out preventive inspections over a three-year period.

Rire-Spatial software will be one of the detection mechanisms used to visually identify the location of properties with swimming pools. Using a comparison of orthographs prior to 2010 with recent data (2011 onward), we will be able to identify new installations for which a permit has not been issued and follow up with the necessary on-site inspection. (Planned completion: June 2014)

RIVIÈRE-DES-PRAIRIES–POINTE-AUX-TREMBLES BOROUGH

[TRANSLATION] To apply the fines provided for in the Provincial Regulation, we will need to establish the definitive date when installations are completed.

We therefore propose carrying out preventive inspections on a random sample of properties every year.

To determine whether installations are subject to these regulations:

- We will identify new installations by comparing aerial photographs in a given sector taken after the Provincial Regulation came into effect (using Map-Info and the SGIS);*
- We will check the presence of residential swimming pools installed after the Provincial Regulation came into effect for which no certificate of authorization has been issued.*

In addition, we propose that the files associated with a certificate of authorization for the installation of a residential swimming pool remain active for three years following issuance. These locations will be systematically followed up at the three-year point, after which the files will be closed. (Planned completion: between May and August 2013)

3.3. Follow-Up on Notices of Non-Compliance

Once a permit has been issued, an inspector must visit the premises to ensure the installation-related work is in order. In other circumstances, for example if other identification mechanisms were to be implemented or a complaint is received, an inspector may also be called upon to check installations that have been identified as being in violation of regulatory safety standards.

Any notices of non-compliance resulting from these inspections must specify the corrective action necessary on the part of the swimming pool owner to meet the stipulated requirements within an established timeframe. In the three boroughs we audited, the inspector is required to enter all inspection results into the Gestion du territoire – Permis computer system and carry out the necessary follow-up. A swimming pool owner who is in violation of the safety standards set out in the Provincial Regulation could be subject to a fine of \$500 to \$700, or as much as \$1,000 in the case of a repeat violation.

At this stage of the process, our audit focused on the following aspects:

- The nature of the notices of non-compliance that may be issued to swimming pool owners (verbal or written);
- The manner in which an inspector follows up on the corrective action to be taken by the resident within a specified timeframe;
- The details to be entered into the Gestion du territoire – Permis computer system for follow-up purposes.

To substantiate our observations, we selected a new sample for each borough to include files where notices of non-compliance had been issued. The samples were picked randomly from a list of notices of non-compliance provided by the boroughs for the years 2010, 2011 and 2012. The sample for each borough therefore contained four files where a notice of non-compliance had been issued, except in the case of Ahuntsic-Cartierville borough for which only three files containing a notice of non-compliance could be found from these years.

Our findings concerning the three boroughs are presented below. Note that statements of violation were not issued in any of these cases.

3.3.1. Ahuntsic-Cartierville Borough

3.3.1.A. Background and Findings

For the three files we audited in this borough, we observed the following:

- In one of the three files, we ascertained that a notice of non-compliance had been issued to a resident with a 10-day deadline for taking the necessary corrective action. A further review of the information in the file showed that the inspector followed up on the situation on an ongoing basis to ensure the corrective active was taken.
- In a second file, we found a note in the computer system used to manage these files to the effect that a verbal warning had been issued to the resident in the spring of 2010 to make the access to the resident's pool safer: one of the gates was not secure and a section of the fence was missing. However, the file does not contain any information about the amount of time given to the resident to carry out the required corrective action. We then found a note indicating that the inspector carried out a new inspection a few days after the verbal warning but that none of the problems had been addressed. The parties once again came to a verbal agreement, although there is no mention of timeframes. According to the information in the file, it was only more than a year later

(fall 2011) that the inspector followed up with another inspection, during which he ascertained that corrective action had still not been taken. We then determined that there were subsequent verbal warnings made and that the matter was settled only in early 2012.

In our opinion, although a verbal notice may be sufficient **the first time a resident is warned of a violation**, we feel that the files should systematically be updated with information on the terms of any arrangements made, including the timeframes involved. This would make it possible to:

- Follow up on the requested corrective action in a timely manner;
- Better plan subsequent efforts to be made over time;
- Ensure a smooth transition should a different inspector be assigned to the file.

In addition, in situations where the offender is slow to cooperate, we feel it may be more appropriate to issue a written notice of non-compliance containing a specific timeframe. This would make it possible to formalize the expected corrective measures and have an official paper trail of the actions undertaken should it become necessary to issue a statement of violation.

- In the third file we audited, a written notice of non-compliance was issued indicating that the resident had five days to carry out the necessary corrective action. Based on the information in the computer system being used as of the date of our audit (November 28, 2012), there was no evidence on file that a subsequent inspection had been carried out to ensure the corresponding measures had been taken within the stipulated timeframe.

We feel it is important for notices of non-compliance to be followed up systematically once the deadline given to the offender has passed, so that additional pressure can be exerted to ensure the specified corrective action is taken quickly so that situations involving a higher risk of drowning do not persist unnecessarily.

3.3.1.B. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough take the necessary measures to remind its inspectors of the importance of entering in the file all the terms of any arrangements made with residents, including the timeframe specified, in a first verbal notice of non-compliance (warning) following an inspection, in order to follow up on the requested corrective action in a timely manner, better plan subsequent efforts to be made and ensure a smooth transition should a different inspector be assigned to the file.

Business unit's response:

[TRANSLATION] The Direction du développement du territoire is currently working on an administrative guideline aimed at inspectors to clarify the importance of issuing written notices for violations involving swimming pools or related regulatory requirements. Some notices can be drafted on the spot; these will now be required in lieu of a verbal warning, although they will not carry the same weight as a statement of violation processed through the computer system.

Meanwhile, all inspectors currently on staff and the head of the Section de l'inspection have received a verbal reminder in this regard. (Planned completion: May 2013)

3.3.1.C. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough take the necessary measures in situations where the offender is slow to cooperate so that its inspectors favour the use of a written notice of non-compliance specifying a timeframe, to formalize the expected corrective measures and have an official paper trail of the actions undertaken should it become necessary to issue a statement of violation.

Business unit's response:

[TRANSLATION] As we indicated in our response to the recommendation 3.3.1.B, the administrative guideline that is currently in the works will require the systematic use of written notices (manual or computer-generated). Verbal warnings will no longer be used. (Planned completion: May 2013)

3.3.1.D. Recommendation

We also recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough exert additional pressure to ensure the specified corrective action is taken quickly so that situations that engender a higher risk of drowning do not persist unnecessarily, by taking the necessary measures to follow up systematically on notices of non-compliance once the deadline given to the offender has passed.

Business unit's response:

[TRANSLATION] The administrative guideline to which we refer in the two previous recommendations will also outline the procedure for entering follow-up dates in the permit system. Each file will therefore contain a reminder date, date on which inspectors can follow up on written notices. (Planned completion: May 2013)

3.3.2. Pierrefonds-Roxboro Borough

3.3.2.A. Background and Findings

Regarding the follow-up for notices of non-compliance for the four selected files in Pierrefonds-Roxboro borough, our audit revealed the following:

- The four notices of non-compliance were found through a personal follow-up document prepared by a student. Based on the information obtained from the manager with whom we met, the Gestion du territoire – Permis computer system should be the one used by inspectors to compile the results of their efforts with respect to notices of non-compliance issued and the subsequent follow-up. However, we observed that the notices of non-compliance had not in fact been posted in the system. It was therefore impossible to use it to determine the number of notices of non-compliance issued over time. However, the administration occasionally hires summer students to follow up on certain matters, including cases of non-compliance involving residential swimming pools. These students develop personal follow-up tools using spreadsheets (Excel) which contain a list of the issued notices. This source of information, which nobody could confirm was either complete or incomplete, is the only resource we found that identifies the notices of non-compliance that had been issued.

Furthermore, our review of the selected files also revealed that, once these notices of non-compliance were issued, information on follow-up efforts was occasionally entered into the Gestion du territoire – Permis system, although not in its entirety, as some of it was in the student's file instead.

In order to make it easier to track these operations and provide timely follow-up on notices of non-compliance issued to residents, we feel that all of the information needs to be entered into the computer system recommended by the administration. This would make it possible to generate reports on the number of notices of non-compliance issued and those that are still pending and avoid confusion and lack of follow-up with respect to notices of non-compliance because of the absence of centralized information.

- For two of the four files we reviewed, we observed that a verbal notice of non-compliance (warning) was issued to the resident. However, a closer examination of the information in the files shows that only one of them indicates that a timeframe (15 days) was given to the resident to undertake the necessary corrective action. In the other file, we did not find any information concerning timeframes.

Regarding the file where the timeframe was specified and for which corrective action was required to address, among other things, the lack of a gate to control access to the pool from an adjacent patio, we observed that the matter was considered settled and closed after 52 days (nearly two months) after the initial 15-day deadline. The file did note, however, that a subsequent verbal warning had been issued, although there was no mention of the stipulated timeframe.

In the other file, for which we found no evidence of a timeframe provided to the resident, we observed that the only other effort made to ensure the corrective action was taken occurred 134 days (nearly 4.5 months) after the initial warning was issued. At that time, the file was considered settled and had been closed. We feel this response time is too long, especially since the file involved an unsecure gate that did not adequately control access to the pool and since the warning was a verbal one without any further information on the timeframe granted for carrying out the corrective action.

- For two of the four files, the resident was informed of the corrective action to be taken by way of a written notice of non-compliance. Once again, we observed that only one of the files specified a timeframe (15 days), whereas the other file contained no such information.

The file for which a 15-day deadline was imposed involved a fenceless inground pool. We observed that the file was considered to be settled and closed 31 days after the initial notice was issued to the resident. We also found evidence that a verbal reminder had been given in the meantime, although no timeframes were specified in the file.

We ascertained that the file for which we did not find any evidence concerning the amount of time indicated to the resident was considered settled 55 days (nearly two months) after the notice was issued. Once again, the file indicates that a second verbal notice had been provided, but again, without any mention of how long the resident was given to comply.

In our opinion, although a verbal notice may be sufficient **the first time a resident is warned of a violation**, we feel that the files should systematically contain documentation on the terms of the arrangements made, including the timeframes involved. This would make it possible to:

- Follow up on the requested corrective action in a timely manner;
- Better plan subsequent efforts to be made over time;
- Ensure a smooth transition should a different inspector be assigned to the file.

In addition, in situations where the offender is slow to cooperate, we feel it may be more appropriate to issue a written notice of non-compliance specifying a timeframe. This would make it possible to formalize the expected corrective measures and have an official paper trail of the actions undertaken should it become necessary to issue a statement of violation.

3.3.2.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough take the necessary measures to ensure that all of the information related to the issuance of and follow-up notices of non-compliance be entered into the Gestion du territoire – Permis computer system in order to be able to:

- **Generate reports on the number of notices of non-compliance issued and those that are still pending;**
- **Easily identify what has already been done in the file and ensure timely follow-up;**
- **Avoid confusion and lack of follow-up with respect to notices of non-compliance because of the absence of centralized information.**

Business unit's response:

[TRANSLATION] Use the Gestion du territoire – Permis system at all times and compile data for every inspection.

Follow up on all inspections.

Produce a monthly report to check the status of various files. (Planned completion: May 2013)

3.3.2.C. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough remind its inspectors of the importance of including the timeframe indicated to residents to take corrective action in the file in order to follow up on the requested corrective action in a timely manner, better plan subsequent efforts to be made and ensure a smooth transition should a different inspector be assigned to the file.

Business unit's response:

[TRANSLATION] Monthly reports will also be sent to those inspectors who must follow up on files for the purpose of issuing statements of violation or briefing replacement staff.

Plan meetings with inspectors to discuss file monitoring and follow-up procedures. (Planned completion: May 2013)

3.3.2.D. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough undertake the necessary actions to encourage inspectors to issue written notices of non-compliance specifying a timeframe, in situations where the offender is slow to cooperate, in order to formalize the expected corrective measures and have an official paper trail of the actions undertaken should it become necessary to issue a statement of violation.

Business unit's response:

[TRANSLATION] Notices of non-compliance will always be in written form and specify a timeframe for corrective action. Violations must also always be clearly indicated.

All data required for follow-up purposes must be compiled in the Gestion du territoire – Permis system. (Planned completion: May 2013)

3.3.3. Rivière-des-Prairies–Pointe-aux-Trembles Borough

3.3.3.A. Background and Findings

In the four selected files for which notices of non-compliance were issued, our audit revealed that, for all four, a written notice was issued to the offender, indicating that

corrective action was required within a period of 10 or 30 days. Based on the information found in the file through the Gestion du territoire – Permis computer system, we determined that, in the two cases where a 10-day timeframe was given, the inspector followed up on the file on an ongoing basis once the initial deadline had passed, to ensure the required corrective action was carried out within a satisfactory timeframe. In the two other files, where a 30-day grace period was granted, the information we reviewed in the file indicated that an inspector followed up on the file in a timely manner and the file was settled before the deadline.

We did wonder, however, why a 30-day timeframe was given in situations where the non-compliant elements indicated in the file involved a missing or inadequate enclosure around the pool, considering that such situations represent a high drowning risk. Furthermore, although section 9 of the Provincial Regulation mentions that temporary measures must be taken to control access to the pool in these scenarios, we found no mention in the file of any such course of action.

3.3.3.B. Recommendation

We recommend that the Direction de l'aménagement urbain et des services aux entreprises in Rivière-des-Prairies–Pointe-aux-Trembles borough help reduce drowning risks in situations of non-compliance where swift corrective action is required by:

- **Assessing the possibility of imposing a deadline shorter than 30 days in situations where a notice of non-compliance is to be issued;**
- **Reminding inspectors about the importance of ensuring that temporary measures designed to control pool access are in place, in accordance with regulatory requirements, and of updating the files with this information.**

Business unit's response:

[TRANSLATION] A section containing guidelines on temporary measures that may be required while work is under way has been added to the [TRANSLATION] "Regulatory Analysis Sheet – Review/Inspection." These measures are henceforth an integral part of the items to be checked by inspectors.

The deadline stipulated in these notices of non-compliance will be shortened to 15 days. (Completed, March 2013)

3.4. Mechanisms for Raising Public Awareness

An additional purpose of our audit was to determine the various mechanisms used by the boroughs to educate residents about the regulations concerning residential swimming pool safety and the need to obtain a permit for all construction, installation and replacement work as well as for the erection of any structures enabling or preventing pool access.

For each of the boroughs we visited, we listed the mechanisms used and examined the nature and public accessibility of the distributed information.

3.4.1. Ahuntsic-Cartierville Borough

3.4.1.A. Background and Findings

In this borough, the mechanisms used to raise residents' awareness about regulations concerning residential swimming pools were observed in three main sources of information:

- Leaflets available at the borough office, including a fact sheet entitled [TRANSLATION] "Swimming Pool Permits";
- Information communicated via the borough website, including:
 - The ACCÈS MONTRÉAL network's 311 databank: fact sheet entitled [TRANSLATION] "Ahuntsic-Cartierville – Private Pools,"
 - The [TRANSLATION] "Permits and authorizations" section ("Services for residents / Permits and regulations"): "Info-Permit" sheets,
 - Borough newsletters found under the [TRANSLATION] "All publications" heading on the home page;
- Community newspapers.

Although it is interesting to note that the borough has developed a range of information sources to apprise residents of the various requirements concerning swimming pool installations, an examination of the information these sources contain revealed the following:

- In some instances, the information is not up to date. The [TRANSLATION] "Swimming Pool Permits" fact sheet, for one, which is available through the borough office, does not contain any details on the new regulatory provisions concerning residential swimming pool safety.

Moreover, the [TRANSLATION] "Ahuntsic-Cartierville – Private Pools" fact sheet in the 311 databank indicates that the fence around a pool must be assembled in a manner that

prevents a spherical object 12 centimetres (4 inches) in diameter from getting through, whereas the figure used in the Provincial Regulation and the borough's fence by-law is 10 centimetres.

Finally, the [TRANSLATION] Info-Permit sheet entitled [TRANSLATION] "Looking for an Appurtenance?" (No. 10), which can be found in the [TRANSLATION] "Permits and authorizations" section of the website, is dated September 2010, whereas the new borough by-law on fences was adopted in October 2011 and incorporates new provisions on fences and enclosures around residential swimming pools.

- In other cases, the information provided could be more detailed. During our examination of borough newsletters, we noted that the fall 2012/winter 2013²² issue reminds residents about the need to obtain a renovation permit (which extends to swimming pools), but it does not include any details as to the safety requirements stipulated in the Provincial Regulation.

The same applies to the community newspapers through which a range of information is relayed to the public. In 2012, for instance, we observed that this means of communication was used by the borough to remind residents that a permit was required to install a pool, but no mention was made about the mandatory safety standards to be observed.

In the interest of ensuring that current regulations aimed at reducing drowning risks are adhered to, and to avoid potential confusion with respect to the safety measures to be taken when installing a swimming pool, we feel that additional efforts should be made by the borough so that the various sources of information used to apprise residents of the applicable rules in terms of residential swimming pool safety are complete and up to date. In addition, we believe that it would be a good idea for the borough to continue to remind residents on an annual basis that a permit is required to install a pool, only it should also include a list of the corresponding safety requirements as dictated by the borough and the provincial government.

²² [TRANSLATION] *Ahuntsic-Cartierville Newsletter*, Fall 2012/Winter 2013, Vol. 9, No. 2.

3.4.1.B. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough ensure applicable regulations are adhered to and avoid potential confusion in the implementation of safety measures related to residential swimming pools by:

- Investing the necessary efforts so that the information in the various mechanisms used to educate and inform the public is complete and up to date;
- Continuing to issue annual reminders to residents about the need to obtain a permit to install a swimming pool, including the various safety standards set forth in both municipal by-laws and the Provincial Regulation.

Business unit's response:

[TRANSLATION] The [TRANSLATION] Info-Permit fact sheet for residential swimming pools is being reviewed and will be uploaded to the website in May 2013. This new version will include the same checklist as the one used by permit clerks and inspectors.

*Once the fact sheet is online, a notice to this effect will be published in the monthly resident newsletter along with a hyperlink to the Info-Permit sheet. **(Planned completion: May 2013)***

*The spring issues of the [TRANSLATION] Ahuntsic-Cartierville Newsletter and resident newsletters will also contain this information. **(Planned completion: June 2014)***

3.4.2. Pierrefonds-Roxboro Borough

3.4.2.A. Background and Findings

The main public awareness tool used to inform Pierrefonds-Roxboro borough residents about residential swimming pool safety regulations is the borough website. Pool-related information can be found in:

- The ACCÈS MONTRÉAL network's 311 databank;
- The "Permits and authorizations" section (under "Services for residents / Permits and regulations");
- The municipal magazine available under the "Borough newsletter" heading on the home page.

In reviewing the contents of these documents, we observed that:

- The 311 databank indicates that residents are required to obtain a permit to build or install a residential swimming pool and provides an overview of the latest safety standards contained in the corresponding regulations.
- The May 2011 issue of the municipal magazine *Life in Pierrefonds-Roxboro*²³ reminds residents that a permit is required to install a swimming pool more than 600 mm high and lists the applicable safety standards. The May 2012 issue²⁴ features a similar set of reminders.
- The “Permits and authorizations” section (under “Services for residents / Permits and regulations”) contains a brief mention of the need to obtain a permit to install an inground or aboveground pool or an inflatable pool more than 600 mm high. It does not, however, provide any information about the safety standards to be adhered to.

The borough initiative aimed at reminding residents every year about the regulatory requirements concerning the installation of swimming pools is, in our opinion, a sound management practice in terms of helping to raise public awareness about the safety standards to be observed to reduce drowning risks. We believe, however, that it would be appropriate for the borough to enhance the information in the “Permits and authorizations” section of its website to incorporate the regulatory safety standards associated with swimming pool installation. We feel that the very title of this section of the website makes it more likely to be the source of information residents turn to most frequently to find out what the rules are for obtaining a project permit.

3.4.2.B. Recommendation

We recommend that the Direction de l’aménagement urbain et des services aux entreprises in Pierrefonds-Roxboro borough improve public awareness about existing regulations by:

- **Taking the necessary measures to enhance the “Permits and authorizations” section of the site (under “Services for residents / Permits and regulations”) with additional information on the regulatory safety standards to adhere to when installing or constructing a residential swimming pool so that the public has access to complete information no matter which source of information they use;**
- **Continuing to remind residents every year about regulatory requirements governing residential swimming pools.**

²³ *Life in Pierrefonds-Roxboro*, municipal magazine, May 2011, Vol. 6, No. 2.

²⁴ *Life in Pierrefonds-Roxboro*, municipal magazine, May 2012, Vol. 7, No. 2.

Business unit's response:

[TRANSLATION] The information contained in the Life in Pierrefonds-Roxboro magazine, along with other important details, will also be published on the borough website under "Services for residents / Permits and regulations." (Planned completion: May 2013)

3.4.3. Rivière-des-Prairies–Pointe-aux-Trembles Borough

3.4.3.A. Background and Findings

The mechanisms used by the borough to educate and inform residents about existing regulations as they apply to residential swimming pool safety are channelled through two main sources of information:

- The borough website:
 - The ACCÈS MONTRÉAL network's 311 databank,
 - The [TRANSLATION] "Permits and authorizations" section ("Services for residents / Permits and regulations"): [TRANSLATION] Info-Permit: Swimming Pools,²⁵
 - The e-newsletter available under the [TRANSLATION] "Newsletter" heading,
 - The [TRANSLATION] "News" and "Public notices" sections of the website, accessible from the home page;
- Community and local newspapers distributed in the borough, in particular an article entitled [TRANSLATION] "Borough Report."

In examining the content of these documents, we made the following observations:

- The information contained in the 311 databank specifies the need for residents to obtain a permit to install a pool. However, it does not provide any information on the regulatory safety standards applicable to residential swimming pools.
- The [TRANSLATION] "Permits and authorizations" section ("Services for residents / Permits and regulations") features an [TRANSLATION] "Info-Permit fact sheet" specifically about pools entitled [TRANSLATION] "Pools, Spas and Other Outdoor Basins" with a range of information that was last updated on May 7, 2012. It stipulates that residents are required to obtain a permit to install a pool and notes the regulatory safety standards applicable to residential swimming pools that must be observed.
- The e-newsletter is sent to residents who subscribe to the service. The April 15, 2011, issue reports on new regulations applicable to residential swimming pools and emphasizes the importance of applying for a permit. In 2012, this medium was not used to inform residents about the rules related to residential swimming pool safety.

²⁵ [TRANSLATION] Info-Permit: "Pools, Spas and Other Outdoor Basins."

- Pool-related information occasionally appears in the [TRANSLATION] “News” and “Public notices” sections of the website. On May 5, 2011, for example, information was posted in the [TRANSLATION] “News” section to announce that new residential swimming pool safety regulations were in force. In addition, on April 14, 2011, we ascertained that a notice entitled [TRANSLATION] “What You Need to Know Before You Install Your Residential Swimming Pool” was published. In 2012, these communication tools were not used to convey information on the rules related to residential swimming pool safety.
- As for local and community newspapers distributed in the borough, we observed that the borough published an article on July 17, 2012, entitled [TRANSLATION] “Pool Safety: Think About It!” which contained a section devoted to residential swimming pool safety.

All in all, we determined that the borough uses various means of communication to inform and educate the public about regulatory standards applicable to residential swimming pool safety. Apart from the 311 databank, which does not provide any information on regulatory safety standards applicable to residential swimming pools, the information distributed overall by the borough is complete and up to date. We also encourage the borough to continue to send out annual reminders to residents about the provisions of the Provincial Regulation.

3.4.3.B. Recommendation

We recommend that the Direction de l’aménagement urbain et des services aux entreprises in Rivière-des-Prairies–Pointe-aux-Trembles borough improve resident awareness about compliance with existing regulations by:

- **Taking the necessary measures to ensure the information in the 311 databank also incorporates information about the regulatory safety standards for residential swimming pools so that the public has access to complete information, regardless of the source of information they use;**
- **Continuing to remind residents every year about regulatory requirements governing residential swimming pools.**

Business unit’s response:

[TRANSLATION] The files contained in the 311 databank are updated annually. For the [TRANSLATION] “Pools, Spas and Other Outdoor Basins” fact sheet, this update is planned for May 2013. We will take advantage of this update to include information on the regulatory safety standards applicable to residential swimming pools.

We will work with our borough’s Division des relations avec les citoyens et communications to publish articles every year that remind residents of the regulatory

requirements involved in installing residential swimming pools. (Planned completion: May 2013)

3.5. Accountability

3.5.A. Background and Findings

As part of our audit, we also examined the accountability mechanisms used to ensure the boroughs periodically assess the performance of their activities as they relate to the application of the Provincial Regulation. This section outlines our observations as they apply to the three boroughs we visited.

In light of the information we obtained from the people with whom we met at each of the boroughs we visited, it would seem that there are no particular accountability mechanisms in place in this regard.

In Ahuntsic-Cartierville borough, we observed that the statistical reports produced by the computer system used by the borough to manage permit-related information (Gestion du territoire – Permis) are produced annually by the division head and submitted to the manager of the Direction du développement du territoire. Although these reports provide indications concerning such aspects as the number of permits issued, the cost of work and the cost of permits as they relate to construction, demolition, conversion and occupation of the public domain, none of the information they contain is related to swimming pool permits.

Regarding the Pierrefonds-Roxboro borough, the information obtained from the manager with whom we met revealed that a monthly report is produced for management purposes and submitted to the manager of the DAUSE, as well as to the borough council for information purposes. This report, entitled *[TRANSLATION] Permits and Certificates Issued for the Month of xx*, is generated using information derived from the computer system used to manage and issue permits (i.e., Gestion du territoire – Permis). Among the data it contains are the number of permits issued, the corresponding value with respect to new constructions, expansions, building renovations and demolitions, and activities related to occupation of the public domain. We did note, however, that the report does not contain any information on residential swimming pool permits.

Finally, in Rivière-des-Prairies–Pointe-aux-Trembles borough, we observed that yearly reports on permits issued were also being produced for the DAUSE. These reports include statistics on the number of permit applications processed on an annual basis as well as the length of time taken to issue them. The data are compiled by type of application:

- Construction, renovation and demolition permits;

- Certificate of occupation, certificate of approval to post notices or signs;
- Cadastral operations.

None of these reports contains information on permits issued for the installation or construction of residential swimming pools.

Considering that, under the Act, the city is responsible for enforcing the Provincial Regulation, we feel it is appropriate that management reports be produced for activities related to the issuance of permits for the installation of residential swimming pools. This information would make it easier to determine the workload associated with this activity and inform decision-making based on available resources.

3.5.B. Recommendation

We recommend that the Direction du développement du territoire in Ahuntsic-Cartierville borough and the Direction de l'aménagement urbain et des services aux entreprises in both Pierrefonds-Roxboro and Rivière-des-Prairies-Pointe-aux-Trembles boroughs undertake the necessary measures to produce regular, brief management reports on activities related to issuing residential swimming pool permits, with the goal of using this information to help determine the workload associated with this activity and, as required, inform decision-making based on available resources.

Business units' responses:

AHUNTSIC-CARTIERVILLE BOROUGH

[TRANSLATION] We are currently looking into the feasibility of reprogramming the permit system to include the option of retrieving swimming pool and renovation permits.

If this is done, annual reports could be issued on every aspect of the residential swimming pool permit and inspection process, starting in 2014. (Planned completion: January 2014)

PIERREFONDS-ROXBORO BOROUGH

[TRANSLATION] Produce an annual report with statistics on the number of certificates of authorization produced, the on-site inspections carried out, the number of statements of violation issued, response times and other details deemed useful in determining the required level of resources. (Planned completion: December 2013)

RIVIÈRE-DES-PRAIRIES–POINTE-AUX-TREMBLES BOROUGH

[TRANSLATION] The certificate of authorization for residential swimming pool installations, which is created using the Oracle – Gestion du territoire system, makes it possible to produce the reports required to assess the workload associated with this activity and, as needed, guide decision-making based on the available resources. (Completed, March 2013)