

Committee of the Whole (2) Report

DATE: Tuesday, June 21, 2022

WARD(S): ALL

TITLE: FENCE BY-LAW AMENDMENTS

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

This Report seeks approval for amendments to the Fence By-law, to further enhance safety regulations with respect to fences and swimming pool enclosures.

Report Highlights

- In accordance with the City's By-law Strategy, staff continue to review by-laws on a cyclical basis; however, as issues, challenges and opportunities arise, staff also bring forward recommended by-law amendments.
- Staff have identified a need to improve the Fence By-law to enhance provisions relating to fences and swimming pool enclosures and to make technical amendments respecting the determination of fence heights.

Recommendations

1. That the amendments to the Fence By-law, in accordance with Attachment 1 of this Report, be approved; and
2. That the proposed by-law amendments to the Fence By-law be in a form satisfactory to the City Solicitor.

Background

The Fence By-law regulates height, acceptable materials, and minimum standards of construction for fences within the boundaries of the City of Vaughan. Based on internal consultations, including feedback received from Enforcement Services, this report seeks to amend and clarify some of the provision of the current Fence By-law.

Previous Reports/Authority

- [Item No. 8 of Report No. 57](#) of the December 1, 2020, *Fence By-law Amendments Related to Swimming Pool Enclosures* (approved by Council on December 1, 2020);
- [Fence By-law 189-2020](#) (approved by Council on December 15, 2020);
- [Property Standards By-law 231-2011](#) (approved by Council on December 13, 2011).

Analysis and Options

The recommended amendments result from consultations and recommendations received from staff, including Enforcement Services and the Development Engineering Department.

Definitions

Staff are recommending to replace or amend some of the definitions in Fence By-law 189-2020, including *Grade, Owner, Property, Person, Height* and *Public Highway* to better address existing requirements for fences and to align them with Property Standards By-law 231-2011. Also, after internal consultation, staff see a need to introduce of a few additional definitions, including: *Vacant Land, Public Road Allowance, Service Entrance* and *Make Changes to a Fence*. All these new amendments are intended to provide greater clarity to the by-law.

Barbed Wire Requirements

Barbed wire is a type of material made from steel and constructed with sharp edges or points. It is a common understanding that barbed or chicken wire was developed for agricultural use only, and is intended to keep cattle inside a confined area and not to be used to dissuade or prevent intruders, as it is dangerous and likely to injure wildlife. For that reason, staff are recommending to amend the requirements for barbed wire, so it is aligned with general standards for this type of fences, by requiring its metal brackets to be inclined towards the enclosed area.

Pool Enclosure Permits

The current version of the City's Fence By-law does not require persons to obtain a permit for an in-ground or above-ground swimming pool enclosure on the same lot, in cases when it was previously obtained. This means that a person is not required to apply for a new permit or to have his or her pool enclosures inspected and approved every time he or she makes substantial renovations or changes to a pool or its enclosure. Such situations may pose risk for people and animals if the new swimming pool enclosure does not align with current safety requirements. Staff are therefore recommending to repeal the provision allowing persons to obtain permits for the same swimming pool on the same lot only once and to require a new permit every time an owner makes substantial changes to a fence.

Fence Location exception

The current Fence By-law allows landowners to apply for an exception from current regulations with respect to the fence location. All property line disputes, including fence location disputes, are a civil matter and are not within the purview of the by-law. In Ontario, such disputes are governed by the [Line Fences Act, R.S.O. 1990](#). The *Line Fences Act* provides a dispute resolution procedure between the owners of adjoining properties in most of Ontario. Staff are recommending to repeal fence location from allowed exceptions and to state that Fence By-law does not apply to the location of the fence.

Swimming pool enclosure gates

Staff are also recommending to enhance requirements around swimming pool enclosure gates, including introduction of separate requirements for single and double gates, as per general standards for such gates.

Incomplete and Abandoned Permit Applications

The AMANDA permitting portal was launched in June 2020. This online service offers applicants the ability to digitally submit swimming pool enclosure permit applications. While both the City and residents have benefitted from the convenience and efficiency of the online permitting portal, there are also a few unintended consequences. Staff have observed a growing number of incomplete and abandoned permit applications left pending on the system for a significant period of time. Incomplete applications include submissions that are not deemed to be complete to initiate permit review. These submissions do not include all of the necessary requirements and/or payment of the permit fee. Whereas, abandoned applications are left pending with unresolved

deficiencies and/or non-payment of the required cash security deposit. With the growing number of such applications, staff deem it a priority to take action on these files to address any audit requirements regarding the management and clearing of pending permit applications.

To address the growing number of incomplete and abandoned applications, staff are recommending a provision allowing for the cancellation of these applications after a determined period of time. Staff suggest that incomplete applications be cancelled after a period of three months and abandoned applications be cancelled after a period of six months. Procedures will be developed to administer permit cancellation including site inspections to confirm that no unauthorized construction has taken place. In the event of unauthorized construction, the file will be flagged and addressed through enforcement measures.

Finally, upon cancellation applicants may be eligible for a partial refund of permit fees. To ensure that the city recovers all permit administration costs up to the point of cancellation, the following is a list of proposed permit fee refund percentages:

- 80% if the application is cancelled prior to review.
- 50% if the application is cancelled after commencement of review, prior to permit issuance and the pre-construction site inspection has not been conducted
- 40% if the application is cancelled after commencement of review, prior to permit issuance and the pre-construction site inspection has been completed.

Financial Impact

There is no financial impact to the City's budget as a result of the recommendations of this report, as all refunds are intended to cover any work performed up to the point of application cancellation.

Broader Regional Impacts/Considerations

There are no specific broader impacts or regional considerations beyond those already discussed in this report.

Conclusion

The proposed amendments are intended to address safety issues in relation to fences and swimming pools and to clarify some of the provisions of the current regulations.

For more information, please contact: Susan Kelly, Chief Licensing Officer and Director of By-law and Compliance, Licensing and Permit Services, ext. 8952

Attachment

1. Proposed Amendments

Prepared by

Kristina Palayeva, Regulatory Business Analyst, ext. 8721

Approved by

A handwritten signature in blue ink, appearing to read "Gus Michaels".

Gus Michaels
Deputy City Manager,
Community Services

Reviewed by

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri
City Manager