

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 28, 2022

Item 37, Report No. 30, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on June 28, 2022.

37. FENCE BY-LAW AMENDMENTS

The Committee of the Whole recommends approval of the recommendations contained in the report of the Deputy City Manager, Community Services, dated June 21, 2022:

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.

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

Proposed Amendments

Fence By-law:

1. Delete the words “noise attenuation” from section 2.0(2).
2. Replace the words “other forms” in Schedule A section (2)(f) with “all forms”.
3. Delete the definition of *Owner* and replace it with the following definition:

“Owner” means a registered owner of a *Property*, and includes but is not limited to any owner in trust, mortgagee in possession or *Person* who is a tenant or has care or control of any *Property*.
4. Delete the words “and includes an *Owner*” from the definition of *Person*.
5. Delete the definition of *Grade* and replace it with the following definition:

“Grade” means elevation of the ground surface of the land at the point of the erection of the *Fence*.
6. Delete the definition of *Property* and replace it with the following definition:

“Property” means a building or structure or part of a building or structure, and includes the lands appurtenant thereto, including all mobile homes, mobile buildings, mobile structures, outbuildings, *Fences* and *Erections* thereon whether heretofore or hereafter *Erected*, and includes *Vacant Land*.
7. Delete the definition of *Height* and replace it with the following definition:

“Height” when used in relation to a *Fence*, means the vertical distance measured between the *Grade* to the highest point of the *Fence*, and that in instances where the *Grade* is different on two sides of a *Fence*, the lowest point of the *Grade* shall be used to measure the *Height* of the *Fence*;
8. Add the definition of *Vacant Land* to read it as follows:

“Vacant Land” means land not being used, with no buildings or structures on the land or being built on the land, other than open space lands and not devoted to the practice of farming.

9. Delete the definition of *Public Highway* and replace it with the following definition:

“Public Highway” means any portion of a *Highway* under the jurisdiction of municipal, provincial or federal government or its agencies, boards, commissions, departments or other bodies and includes *Public Road Allowance*.

10. Add the definition of *Public Road Allowance* to read as follows:

“Public Road Allowance” means road allowances made by the Crown surveyors that are located in the *City* and road allowances, highways, streets and lanes shown on a registered plan of subdivision.

11. Delete subsection 5.0(1)(b) and replace it with the following:

(b) any barbed wire, chicken wire or other barbed or sharp material that is used in accordance with this subsection shall be at least 2.5 metres in *Height* and shall be installed on metal brackets inclined towards the enclosed area at an angle of 45 degrees.

12. Delete the words “fence location” from section 7.0(1).

13. Add section 2.0(5) to read as follows:

(5) Despite section 2.0(1), this By-law does not apply to the location of the *Fences*.

14. Delete section 9.0(4) and renumber the sections accordingly.

15. Delete section 9.0(1) and replace it with the following:

No *Owner* shall excavate or *Erect*, or *Make Changes to a Fence*, or cause or allow excavation or *Erection* of a *Swimming Pool* without first obtaining the appropriate *Swimming Pool Enclosure Permit* certifying approval from the *Director of Development Engineering*, for the construction of a *Swimming Pool Enclosure* for the *Swimming Pool*.

16. Add the definition of *Make Changes to a Fence* to section 3.0(1) to read as follows:

“Make Changes to a Fence” means alter, reconstruct or replace an existing *Fence*, but does not include normal maintenance and repair.

17. Delete the words “any notice or other information” and replace it with the words “any notice, order or other information” in section 13.0(1).
18. Add the words “or notice” after each word “order” in sections 14.0(7) and 14.0(8).
19. Replace the word “apples” with “applies” in section 19.0(2).
20. Add the words “ensure that” after the words “required to” in Schedule A section (3).
21. Delete the first instance of the word “when” after the words “close and lock” in Schedule A section (4).
22. Add the definition of *Service Entrance* to read as follows:

“Service Entrance” means the entrance into a building, which is normally used by *Persons* entering such building for the purposes of delivering goods or rendering maintenance service as opposed to the main or principal entrance and shall include a door giving access to a garage.
23. Delete section (3)(e) in Schedule A and replace it with the following and renumber the sections accordingly:
 - (e) If the gate is a single gate:
 - a. be self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or on the outside at least 1.5 metres above grade; and
 - b. be kept locked at all times except when the enclosed area is in use.
 - (f) If the gate is double gate:
 - a. have one gate that is self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or on the outside at least 1.5 metres above grade;
 - b. have a second gate that is equipped with a lockable drop bolt that extends down into concrete, asphalt, or paving stones by a minimum of 25 millimetres; and

- c. be kept locked at all times, included keeping the lockable drop bolt in the locked position, except when the enclosed area is in use.

24. Add section (3)(j) in Schedule A to read as follows:

- (j) All automatic closing devices and their power back-up systems shall be in compliance with the applicable product and installation standards of the Canadian Standards Association.

25. Add a provision to Part 9.0 to allow the cancellation of swimming pool permit applications, which are deemed incomplete, after a period of 3 months.

26. Add a provision to Part 9.0 to allow the cancellation of swimming pool permit applications, which are deemed abandoned, after a period of 6 months.

27. Add a provision to Part 9.0 setting up refunds policy for incomplete or abandoned swimming pool permit applications. Refunds should be provided as following: 80% refunds, if the application is cancelled prior to review; 50% refunds, if the application is cancelled after commencement of review, prior to permit issuance and the pre-construction site inspection has not been conducted; 40% refunds, if the application is cancelled after commencement of review, prior to permit issuance and the pre-construction site inspection has been completed.