

COMMITTEE OF THE WHOLE - MAY 14, 2007

FENCE HEIGHT EXEMPTIONS

Recommendation

The Commissioner of Legal and Administrative Services in conjunction with the Senior Manager, Enforcement Services recommends:

1. That the criteria and process set out in the report to deal with fence height exemption requests be approved; and,
2. That By-law 80-90 be amended to allow for the delegation of authority outlined in the report.

Economic Impact

Not applicable.

Communications Plan

An information sheet will be developed for the public and staff, and information will also be placed on the Enforcement Services Website.

Purpose

This report is to establish general criteria and processes for the consideration of fence height exemptions.

Background - Analysis and Options

Council, at its meeting of September 25, 2006 (Report 43, Item 43), directed staff to prepare guidelines to assist in the consideration of fence height exemption requests.

Currently, Enforcement Services staff investigate fence height violations that come to their attention primarily by way of complaint, or through pool permit inspections. Homeowners in violation of the height requirement contained in the City of Vaughan Fence By-law 80-90, receive a notice of violation that requires that they comply with the provisions of the By-law, or seek a fence height exemption from Council.

The Fence By-law, generally, restricts fence heights to six feet in rear and side yards, and four feet in front yards. The By-law provides authority to Council to grant exemptions to the height restrictions.

In order to streamline the fence height exemption process, especially over the summer months when Council is on hiatus, staff are recommending that the authority to grant fence height exemptions be delegated to the Department Head of Enforcement Services under certain circumstances.

The Department Head of Enforcement Services will be able to grant exemptions to the height provisions of the Fence By-law in the following circumstances only.

1. In situations where the height of the rear or side yard fence does not exceed 7' from grade, or the front yard fence does not exceed 5' from grade, and the polled homeowners are in concurrence with the request. Polling will invite a response to staff by a specific date.

2. Where safety issues may arise in conjunction with a swimming pool due to a change in grade between a fence no higher than 6.0' when measured from grade, on the side of the fence where adjacent grade is higher would be supported.

In order to facilitate fence height requests the following process is proposed.

1. The homeowner will make application for a fence height exemption as in the current process.
2. Staff will conduct a neighbourhood review of existing fences. The homes in the immediate vicinity will be advised of the application and invited to submit comments.
3. Staff will review the application in light of the established criteria and grant the exemption. A letter will be sent to the applicant and the Mayor and Members of Council advising of the decision.
4. Any application that exceeds the established criteria, or anytime that a polled homeowner submits an objection, will be brought to Council for consideration.

This process should in most cases, reduce the timeframe for a fence height exemption application from months to a few weeks.

The following criteria should be considered by Council on applications for fence height exemptions:

1. Neighbourhood and comparables:
 - Height of adjacent fences;
 - The length of time the fence has been in place.
2. Site Plan requirements:
 - Specific fence type and height stipulated should a site plan for the subject property be in place;
3. Does the fence height relate to the safety of the property:
 - Is there a potential sight line issue if the fence height exemption is granted.
4. Other factors:
 - What is the nature or history of fence height exemptions previously granted/refused in the area.

In order to facilitate the delegation of authority, Section 3.5 of By-law 80-90 should be amended to read:

- a) The Department Head of Enforcement Services may grant an exemption to the fence height requirements where an application for a fence height exemption is not disputed and the height of the rear or side yard fence does not exceed 7' from measured grade, or the height of the front yard fence does not exceed 5' from measured grade; or

In cases where safety may be compromised due to changes in grade between two properties, providing the fence does not exceed 7' in height when measured from the higher of the two properties.

- b) Council may, in all other circumstances, upon application by an owner of the land, enact a resolution to grant an exemption from the height restrictions set out in this Section.

The proposed limited delegation of authority for certain fence height exemptions is similar to other delegation of authority. Currently, the Department Head of Enforcement Services is delegated authority to:

1. Grant exemptions to the restraint provisions of the Aggressive Dog section of the Animal Control By-law 53-2002; and,
2. Grant exemptions to the provisions of the Noise Control By-law 96-2006.

In 2006, Council considered 8 applications for fence height exemptions, of which 6 met the proposed criteria for staff granting exemptions.

Relationship to Vaughan Vision 2007

This report is in keeping with the Vaughan Vision in that it speaks to providing effective and efficient delivery of services.

Regional Implications

Not applicable.

Conclusion

The change in process regarding fence height exemptions will improve customer service and allow for a more efficient and streamlined process for the public.

Attachments

Not applicable.

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Respectfully submitted,

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