

Staff Report

Report To: Community Services Committee
Report From: Kevin Linthorne, Chief Building Official
Meeting Date: December 13, 2023
Report Code: CS-23-119
Subject: New Fence By-law

Recommendations:

THAT in consideration of Staff Report CS-23-119 respecting a Fence By-law, the Community Services Committee recommends that City Council directs staff to bring forward an all-encompassing Fence By-law based on the input and recommendations of the Community Services Committee.

Highlights:

- The City of Owen Sound has never had an all-encompassing Fence By-law.
- A new Fence By-law would incorporate the current Pool Fence By-law together with new regulations, including maximum fence height, fence location and acceptable materials for all fence types in the City.
- A Fence By-law will provide clear direction to property owners and set explicit expectations for compliance and enforcement.

Strategic Plan Alignment:

[Strategic Plan](#) Priority: This report supports the delivery of Core Service

Climate and Environmental Implications:

There are no anticipated climate or environmental impacts.

Previous Report/Authority:

None

Background:

The City's current Pool Fence By-law No. 2010-090 was enacted on May 10, 2010 and last amended on June 20, 2011. This by-law does not regulate other matters relating to fencing outside of fencing surrounding pools.

Over time, staff have received complaints about fences being "too tall" (i.e. in excess of 1.8m (6 feet)) and fences being placed on City property, in easements or in the right of way. This has led to the Clerk's staff having to process applications for Encroachment Agreements for fences being constructed on City property.

Fences are not regulated by the Ontario Building Code, but in consultation with the Engineering Division and good engineering practices, fences over 1.8m in height should be designed by a Professional Engineer. A fence greater than 1.8m in height has the potential to create a danger to neighbours and the public as the fence can act as a sail and, if not properly secured to the ground, has the potential to become dislodged, thus creating a dangerous condition.

It is proposed that a new Fence By-law be developed that will regulate pool fences and also regulate other matters relating to fences in the City.

Analysis:

The new draft by-law proposes:

- To regulate materials, with colour and pattern to be uniform, and limit fence heights in front yards of residential zones to 0.9m. Fences limited in height to 0.9m in the front yard allow for sight lines down the street and avoid properties appearing to look fortified.
- To regulate maximum height. Fences that exceed or do not comply with the provisions of the Fence By-law may seek a variance through the City's Committee of Adjustment.
- To regulate fences for pools that are attached to a deck. These types of fences will be allowed to be higher than 1.8m if the fence forms part of the required guard as per the Ontario Building Code.

- To regulate fences in Sight Triangles as per the City's Zoning By-law and City's Site Development Engineering Standards.
- To prohibit fences in rights of way or in easements unless provided for in the associated easement agreement.
- To prohibit the use of barbed wire or electrical fences unless used in specific zones, such as the Agricultural or Rural zone, subject to provisions in the Fence By-law respecting signage, among other matters.
- To regulate fences in Industrial and Commercial zones, including, among other matters, the maximum permitted height of a fence.
- To prohibit signage attached to any fence unless a Sign Permit has been issued.

The proposed Fence By-law will incorporate plain language for ease of reading and will meet the City's new standard for readability.

The proposed By-law will not require permits for the construction of a fence provided the fence complies with the applicable provisions of the new By-law. Permits will continue to be required for pool fencing and will be required for fences that do not meet the provisions of the By-law.

Similar to the Sign By-law, the City's Committee of Adjustment will be able to hear variance applications to the Fence By-law when a request is received for a fence that does not meet the provisions of the By-law.

The main purpose of the proposed By-law, in addition to pool fences, is to regulate the materials, height and location of a fence in the City. Staff are of the opinion that a Fence By-law will provide clear direction to property owners and set explicit expectations for compliance and enforcement.

Financial Implications:

There are no anticipated financial implications at this time.

Communication Strategy:

New By-law will be posted on the City's website.

Consultation:

Internal City Departments include:

Planning

Engineering Services

By-law Enforcement
Clerks Division

Attachments:

Schedule 'A' City of [Owen Sound Outdoor Swimming Pool Fence By-law No. 2010-090](#), as amended.

Recommended by:

Kevin Linthorne, Chief Building Official
Pam Coulter, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Kevin Linthorne, Chief Building Official, at klinthorne@owensound.ca or 519-376-4440 ext. 1234