

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee
From: Scott Mathers, MPA, P. Eng., Deputy City Manager
Planning and Economic Development
Subject: Fence By-law (PS-6) Housekeeping Amendments
Date: February 22, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development,

- a) The attached proposed by-law (Appendix “A”) **BE INTRODUCED** at the Municipal Council meeting held on March 7, 2023, to amend By-law No. PS-6, Fence By-law.

Summary

This report is an outcome of an operational review of the Fence By-law (PS-6) and contains amendments addressing housekeeping matters.

Linkage to the Corporate Strategic Plan

The 2019-2023 Strategic Plan recommends various process improvements for the City of London through the implementation of:

- Leading in Public Service; through researching and responding to emerging planning trends and issues; and
- Promote and strengthen continuous improvement practices.

The City of London Strategic Plan also provides direction to *“Improve administrative and regulatory processes and by-law requirements to enhance London’s competitiveness.”*

Background Information

The Fence By-law establishes standards for fences in London and includes regulations for fence height, materials, and structure. These vary depending on whether the fence is on residential or a non-residential property and whether the fence encloses a pool. The requirements for swimming pool fences are guided by a separate By-law: Swimming Pool Fence By-law (PS-5).

“Fence” is defined in the Fence By-law, and it includes a railing, wall, line of posts, wire, gate, boards, pickets, or other similar substances, used to enclose or divide in whole or in part a yard or other land, to establish a property boundary, or to provide privacy; and includes any hedge or grouping of shrubs used for the same purpose located in a corner visibility triangle or a driveway visibility triangle.

Staff were also approached by a private consulting firm on behalf of Amorak (an American manufacturer of electric fence technology), requesting staff to undertake a review on the possibility of amending the Fence By-law to include electric fence allowances within the commercial and industrial fence section of the regulations. A Council Resolution has not been received requesting staff to undertake this specific evaluation.

2.0 Discussion and Considerations

2.1 Minor Exemptions to the Fence By-law

Part 4 – RESIDENTIAL FENCES

Civic Administration is recommending that minor exemptions for increased fence height be formally considered and decided upon by the Director, Municipal Compliance or designate. A similar process is currently in place for minor changes to the Sign By-law – (S.-5868-183).

A minor exemption could be considered to permit relief for an existing fence that exceeds the maximum height, or to allow for increased height for properties or locations where security is a concern such as public walkways, highways, or commercial spaces. These would be evaluated by staff to ensure the proposed exemption meets the spirit and intent of the By-law.

2.2 Industrial and Commercial lots

Part 7 – INDUSTRIAL AND COMMERCIAL LOTS

Currently, the maximum fence height on industrial and commercial lots is (7 feet). Staff are recommending permitting a maximum height of 3 metres (10 feet) where the lands are zoned industrial or commercial, are used for industrial or commercial purposes, and where they do not abut lands zoned residential, nor are they used in combination with residential uses. This would be in keeping with the regulations contained with PART 6 – Salvage Yards 6.1- *be not less than 2.44 metres (8 feet) in height and not more than 3 metres (10 feet) in height* and would additionally provide for enhanced security.

2.3 Permitting electric fences outside of rural and agricultural areas

Part 9.1 - ELECTRIC FENCES of Fence By-law (PS-6) prohibits *“any fence equipped with a device for transmitting an electric current thereon or there through, except on agricultural land used for the purpose of keeping livestock”*.

As requested by a fence manufacturer, staff completed a by-law review of several municipalities and found that there are currently no comparable Canadian examples permitting electric fences for non-agricultural purposes. Several American cities have amended by-laws to allow for electric fences outside of rural and agricultural areas. Civic Administration is not recommending the addition of electric fencing the Fence By-law for purposes of health and safety and the availability of alternative private property security options.

3.0 Conclusion

Civic Administration is recommending a few housekeeping amendments including proposing an increase to the maximum fence height in industrial and commercial areas. A potential for minor exemptions for increased fence height in residential areas has also been proposed herein as an amendment to the By-law. At this time and based on research and municipal scans of several Canadian municipalities staff are not recommending amendments to Part 9 – Electric Fences.

Prepared by: Mark Hefferton, MURP, RPP, MCIP
Development Policy Coordinator, Municipal Compliance

Submitted by: Nicole Musicco
Coordinator, Municipal Compliance

**Reviewed and
Concurred by:** Orest Katolyk, MLEO (C)
Director, Municipal Compliance

**Recommended by: Scott Mathers, MPA, P.ENG.,
Deputy City Manager, Planning and Economic
Development**

APPENDIX 'A'

Bill No.
2023

By-law No. PS-6

A by-law to amend the Fence By-law PS-6 to edit and add sections to the By-law.

WHEREAS The Corporation of the City of London has applied to amend the Fence By-law PS-6, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

- 1) Part 4 – RESIDENTIAL FENCES, is amended by **ADDING** the following Section:

Part 4.2 Height – exceptions

A minor exemption for increased fence height [beyond 2.13 metres (7 feet)] may be considered by the Director, Municipal Compliance or designate, in cases where:

(a) a residential lot line abuts natural/open spaces, public walkways or trails, or other adjacent uses which may require increased security measures,

(b) residential lands abut highways, commercial, and/or industrial zones and where concerns about noise are being attenuated by some form of soundproofing and/or noise attenuation,

(c) or any other circumstances that may warrant consideration for minor exemption at the discretion of the Director, Municipal Compliance or designate.

- 2) Part 7 – INDUSTRIAL AND COMMERCIAL LOTS, Section 7.1 is amended by **ADDING** the following Section:

(c) Permit a maximum height of 3 metres (10 feet) where the lands are zoned industrial, or commercial, are used for industrial or commercial purposes, and where they do not abut lands zoned residential, nor are they used in combination with residential uses.

This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on _____, 2023,

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – __, 2023

Second Reading – __, 2023

Third Reading – __, 2023