



Town of Whitby

By-law # 7863-22

Amendment to Fence By-law # 4394-99

Being a By-law to amend the Fence By-law # 4394-99, as amended.

Whereas the Council of The Corporation of the Town of Whitby considered Report LS 03-22 at its meeting on February 28, 2022;

And whereas Council deems it necessary to amend Fence By-law # 4394-99, as amended, to delegate authority to the Commissioner of Legal and Enforcement Services/Town Solicitor to consider minor fence height exemption requests in accordance with the process and conditions outlined in Report LS 03-22.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. General

1.1. That subsection 1(a) "Director of Public Works" of By-law # 4394-99, as amended, be repealed and replaced with the following definition:

"Commissioner of Legal and Enforcement Services/Town Solicitor" means the Commissioner of Legal and Enforcement Services/Solicitor for the Town of Whitby or their designate;

1.2. That all remaining references to "Director of Public Works" in By-law # 4394-99, as amended, be replaced with "Commissioner of Legal and Enforcement Services/Town Solicitor";

1.3. That the following be added as Section 7 to By-law # 4394-99, as amended, with the existing Sections 7, 9, 10, 11, and 12 re-numbered accordingly and Section 8 remaining as originally numbered:

7. Minor Fence Height Exemptions

7.1. The Commissioner of Legal and Enforcement Services/Town Solicitor is delegated the authority to approve exemptions from the 2 metre fence height maximum noted Sections 2(1), 2(2), and 5(1) of this By-law subject to the following:

- i) The height exemption being sought is no more than a maximum 10% variance;
- ii) The applicant provides the required information, as determined by the Commissioner, with their application and payment of the application fee as set out in the Town's Fees and Charges By-law;
- iii) The Commissioner circulates notice of the application for an exemption to adjacent property owners directly affected by the application to determine if there are objections to the application;

- iv) Upon receipt of an objection, the Commissioner shall review the objection, and if reasonable grounds for the objection are provided, the exemption request will be denied;
- v) In instances where a fence that is subject to an application for an exemption abuts or may otherwise potentially impact Town property, the Commissioner shall circulate the application for an exemption to relevant Town departments for review and comment;
- vi) Fences that are approved for exemptions to the height maximums of the Fence By-law remain subject to the provisions of the Division Fence By-law # 3657-95 and the Line Fences Act, R.S.O. 1990, c. L.17; and,
- vii) The Commissioner may provide for any matter that, in the Commissioner's opinion, is necessary for the assessment and determination of fence height exemption requests in accordance with this By-law.

2. Effective Date

- 2.1 The provisions of this By-law shall come into force and take effect on the final passing of the By-law.

By-law read and passed this 7th day of March, 2022.

Don Mitchell, Mayor

Christopher Harris, Town Clerk