

FRONT YARD DEER FENCING POLICY/BYLAW

DECEMBER 9, 2024

BACKGROUND

Esquimalt's Zoning Bylaw, No. 2050 regulates fence heights in the Township. Generally, the maximum height of a fence is 1.2m in the front of the front face of the Principal Building and 2 metres behind the front face of the Principal Building. Fences of this height do not limit deer from entering properties and causing damage to gardens or landscaping. To address this, Council provided the following direction to staff, in response to a Notice of Motion on June 28, 2021:

Staff to draft a staff report for consideration and discussion at a Committee of the Whole meeting regarding fence heights and design. The report should briefly explore ways to increase fence heights along with guidelines to allow for esthetics of the neighbourhood.

In response to the above direction from Council, Development Services provided information on fencing requirements in Esquimalt and other municipalities, and information on deer fencing in Staff Report DEV-21-070 at the October 18, 2021 Committee of the Whole meeting. At that time, the Committee did not come to a consensus. Along with other feedback provided by the Committee, the Committee discussed waiting until the deer study is complete and determining its success prior to addressing the issue further. The deer study is now expected to continue until late 2025. As such, further work on this file has been on hold and identified as a Potential Future Project in the Council Priorities Plan.

Meanwhile, deer continue to be present in Esquimalt, affecting residents' gardens and landscaping. Some residents continue address this through various forms of deer fencing, sometimes in contravention of the Zoning Bylaw (if the height of the fence exceeds 1.2m and 2m in the front of or behind the front face of the Principal Building, respectively). Feedback from the Bylaw Management Officer indicates that minimal to no bylaw complaints related to deer fencing are received anymore.

If a resident is interested in installing deer fencing in a bylaw-compliant way, the existing Development Variance Permit process is an avenue to do so. The process may be perceived as onerous for deer fencing; however, it is the process currently used when someone wants to vary the height of a fence for any reason.

PROJECT SCOPE

The desired final outcome of this project is a formalized process for residents to legally add deer fencing that protects resident's gardens, along with any necessary guidelines to match this process.

To complete this scope, staff will complete the following tasks:

- Conduct an initial analysis comparing the requirements for the Development Variance Permit process versus the Development Permit process to assess if there is a significant advantage to using one process over the other;
- Review and document examples from other municipalities;
- Explore research materials on preferred fencing options;
- Engage with Dr. Fischer and the deer study team to gain feedback on fencing options;
- Determine mechanisms to formalize the process, including updating the Zoning Bylaw and Development Guidelines;
- Complete a legal review to determine appropriate bylaw or policy to update to create an authorized process that is less onerous than the Development Variance Permit process;
- Complete public engagement through an online survey;
- Review and summarize the public engagement;
- Provide a report to Council with the findings from the above actions and recommendations for Council's consideration; and
- Draft updated documents for approval by Council.

Level of effort on this specific project can be potentially reduced by aligning this work with the update to the Zoning Bylaw that is required by the Province in 2025.

PROJECT SCHEDULE

Staff expect that a project of this scale to take approximately 6-9 months if it is prioritized over other Council Priorities. If the project is added without significant changes to other Council Priorities, a more realistic timeline is 12-18 months.

STAFF IMPACT

Staff required to complete this work will primarily be Development Services staff. Most of the effort involved will be completed by the Township's Policy Planner with oversight from the Director of Development Services. Support from the Director of Engineering & Public Works, Bylaw Management Officer, Building Officer, and Communications Manager is required.

Staff will review if there are successful examples in other municipalities, but the current expectation is that there are limited to no useable examples to replicate. As such, staff will have to spend time researching and working with legal services to ensure a feasible option is implemented that meets the desired outcome of the project. The staff that would complete this work are already at capacity

for the coming year and the level of effort required to complete this project will impact staff's ability to complete other priority work in a timely manner.

STAKEHOLDERS/POTENTIAL PARTICIPANTS OR DEPENDENCIES

The key stakeholder is the public who are the end user of the project. Engaging with the public through an online survey will allow staff to gather examples of practices in place throughout the Township and ensure any proposed changes meet the public's expectations.

Internal staff will complete the scope of work, as described above. Staff would work with Dr. Fischer and his team completing the deer study to ensure the proposals align with best practices and do not interfere with the deer study.

PROJECT RISK MANAGEMENT

The following are potential risks for this project, along with impacts and mitigation strategies:

- Interpretation of updated bylaw and/or guidelines result in increased fence heights for privacy purposes:
 - o Mitigation: considerable staff time should be allocated to complete research and legal input to ensure new regulations are clear and enforceable.
- Staff time required is higher than expected and this project or other projects are delayed:
 - o Mitigation: realistic timelines and staff impact are outlined in this Impact Assessment for Council's consideration before directing staff to proceed.
- New process limits enforcement capabilities:
 - o Mitigation: staff to have a legal review completed prior to recommending feasible options.
- New process is too onerous or costly and existing unauthorized practices continue:
 - o Mitigation: complete public engagement to gather input from the public on proposed changes.
- Existing practices do not meet the new process and enforcement results in reputational impact:
 - o Mitigation: complete public engagement to gather input from the public on existing practices.

FINANCIAL IMPACT

Minimal financial impact to the Township is expected, outside of legal review that may require a supplementary budget approval. Cost for the public to install deer fencing to be a consideration when considering feasible options.