

## **Fence Sight Lines**

<b>Date:</b>	June 16, 2008
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Jim Hart, Executive Director, Municipal Licensing and Standards
<b>Wards:</b>	All
<b>Reference Number:</b>	p:\2008\Cluster B\MLS\ls08005

### **SUMMARY**

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One of the fundamental aims behind fence height restrictions is to ensure that sight lines are not obstructed so as to create hazards for both pedestrian and vehicular traffic.

Staff reviewed the City's current fence provisions and identified a number of amendments that would make the By-law clearer and would tighten restrictions around driveways, where most sight line issues occur. In particular, the proposed amendments would require that any fence within 2.4 metres of any driveway be of chain-link or equivalent open-fence construction for at least 2.4 metres from the lot line at which the driveway begins. This would ensure a clear view for anyone reversing a motor vehicle from a driveway.

Some related and incidental amendments are also proposed, including the expansion of the meaning of fence, as used in the By-law, and the inclusion of a definition for driveway.

The proposed amendments would apply to new fences and those that are replaced.

This report was prepared in consultation with the City Solicitor.

### **RECOMMENDATIONS**

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**The Executive Director of Municipal Licensing and Standards recommends that:**

1. The amendments to Toronto Municipal Code Chapter 447, Fences be adopted substantially in the form set out in Appendix "A", subject to such minor stylistic and substantive changes as

may be deemed necessary or appropriate by the Executive Director of Municipal Licensing and Standards or the City Solicitor;

2. Municipal Licensing and Standards develop and make available information materials for the general public, as deemed necessary; and
3. Staff be directed to take any necessary actions to implement and otherwise put into effect the above recommendations.

## **IMPLEMENTATION POINTS**

Information materials referred to in recommendation number two, can be developed in-house and disseminated through existing channels, such as customer service counters, Municipal Standards Officers (during site inspections), and the City's web site.

## **FINANCIAL IMPACT**

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There are no financial implications as a result of the adoption of the recommendations of this report.

## **DECISION HISTORY**

At its meeting of May 9, 2008, the Licensing and Standards Committee adopted a motion to direct the Acting Executive Director of Municipal Licensing and Standards to report back, at the July 3, 2008 meeting, on the possibility of amending Toronto Municipal Code Chapter 447, fences to reduce the height restrictions for front yard fences from 1.0 metres to 0.5 metres.

## **ISSUE BACKGROUND**

Toronto Municipal Code Chapter 447, Fences, regulates the height and construction of fences on private property in the City of Toronto. The current regulations provide for maximum height restrictions on fences in accordance with the type of fence and its location on the property. The aim of these provisions is to mitigate sight-line obstructions which could create potential hazards.

As a result of the direction to report back to the Licensing and Standards Committee on further restricting the height of front-yard fences, staff conducted a review of potential sight-line issues and have provided the recommendations in this report for consideration by the Committee.

## **COMMENTS**

In reviewing the request from the Licensing and Standards Committee as well as other sight-line issues, staff have made a number of recommendations, as discussed below. The amendments to Chapter 447, Fences, would only apply to new fences and to fences being replaced.

### **Definitions**

The definition of a fence is being expanded to include any hedge or shrub, as opposed to a grouping of shrubs that have the same effect as a fence (that is, that screen, enclose, divide or mark a boundary). The expanded definition will allow Municipal Standards Officers to deal more effectively with obstructions under Chapter 447, Fences.

Definitions for “driveway” and “parking lot” have been added for clarification. Additional proposed amendments aim to reduce sight-line obstructions that could pose hazards to both pedestrians and vehicular traffic. These provisions are based on a fence’s position with respect to any driveway.

Definitions for “guard”, “open-fence construction”, and “Community Council” have also been included for added clarification.

### **Flankage Yards**

The proposed amendments are intended to both clarify and emphasize that, with respect to flankage yards, open-fence construction and alternative height restrictions apply only when the fence in question is both within 2.4 metres of the side lot line and within 2.4 metres of any driveway. A more restrictive interpretation would prevent homeowners from being able to install a two-metre privacy fence within 2.4 metres of a side lot line, even though no sight-line obstruction issue exists. Figure 1 provides an example of the requirements on flankage yards.

Table 1 in the By-law is also further amended to clarify that the height requirements for fences on unroofed decks or abutting multiple residential property apply only to those fences that are not on front or flankage yards. This has been the interpretation of these provisions in the past. The proposed change in wording, however, clarifies this meaning.

### **Open-Fence Construction Requirements**

Current provisions allow a one-metre fence that is not an open-fence construction, up to the front lot line. This can create a situation for someone backing up in a motor vehicle on the adjacent driveway in which he or she may not see a small child approaching on the boulevard. Figure 2 illustrates such a scenario. Figure 3 shows a driver’s view from a vehicle on the adjacent

driveway. Note that the driver can see the approaching vehicle, but would not be able to see a small child on the boulevard. In the opinion of Staff, this situation is an avoidable hazard.

For this reason, despite the height restrictions in Table 1 of the By-law, Staff recommend that wherever a driveway exists, open fence construction be required within 2.4 metres of the corresponding lot line and that in the case of a parking lot, that no sight line obstructions be created by any fence. Figure 4 depicts how the proposed standards would generally apply.

The open-fence construction requirement within 2.4 metres of any driveway makes the sight-line height restrictions for fences obsolete. For this reason staff recommend that the one metre restriction for front yard fences and the 0.8 metre restriction for flankage yard fences be replaced with the standard of 1.2 metres. These fences could be of closed construction except in the areas within 2.4 metres of any driveway and within 2.4 metres of the lot line at which the driveway begins.

Where a fence also acts as a guard, such as one required on a retaining wall over one metre in height, the fence be required to meet all of the structural, load-bearing, and safety requirements for guards in Toronto Municipal Code Chapter 629, Property Standards, even if the fence is required to be of the open-fence construction type.

Furthermore, if the guard forms part of a swimming pool enclosure, it must also meet the requirements of the pool enclosure provisions, mainly with respect to height, climbing prevention and construction.

This option is preferred to that of reducing the maximum allowable height to 0.5 metres because at this height, and especially in the instance where a retaining wall forms part of the fence, not only might it not be possible for the height requirements to be met, but a tripping hazard could also result. An open-fence construction with a height of at least one metre, on the other hand, poses no such hazard and provides maximum visibility.

## **Fence exemptions**

Although a fence exemption process exists, it has not been provided for in the current By-law the way similar exemption processes have been for art murals and natural gardens. The recommended additions formalize the existing process. The fee is already included in Toronto Municipal Code Chapter 441, Fees and Charges.

## **Other amendments**

Table 1 was made more compact by combining the requirements for single and multiple residential properties into one column. The requirements for fences on both of these types of

properties are the same so that the proposed change to the table does not amend any existing requirements to fences on either type of property.

## **CONTACT**

Rudi Czekalla  
Senior Policy Research Officer  
Municipal Licensing and Standards  
Telephone: (416) 392-9352 Fax: (416) 392-0797  
E-mail: [rczekal@toronto.ca](mailto:rczekal@toronto.ca)

## **SIGNATURE**

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Jim Hart  
Executive Director  
Municipal Licensing and Standards

## **ATTACHMENTS**

Appendix “A”-Proposed Amendments to Toronto Municipal Code Chapter 447, Fences.

Figure 1: Fence requirements on flankage yards

Figure 2: Example of fence within 2.4 metres of the front lot line and within 2.4 metres of the driveway

Figure 3: Driver’s view from a vehicle on the driveway adjacent to the fence

Figure 4: General application of proposed standards

## Appendix A

### Proposed Amendments to Toronto Municipal Code Chapter 447, Fences

1. Chapter 447, Fences, of the City of Toronto Municipal Code be amended as follows:
  - A. The definition for fence in § 447-1 be amended by replacing “used to” with “that”, “screen” with “screens”, “enclose” with “encloses”, “divide” with “divides” and “mark” with “marks”; replacing “grouping of shrubs” with shrub; and replacing “used for the same purpose” with “that has the same effect”, so that the definition now reads:

FENCE – A barrier, including one for noise attenuation, or any structure, except a structural part of a building, *that* wholly or partially *screens* from view, *encloses* or *divides* a yard or other land, or *marks* or substantially *marks* the boundary between adjoining land, and includes any hedge or shrub *that has the same effect*.
  - B. The following definitions are added to § 447-1 as follows:

“COMMUNITY COUNCIL – As defined in Chapter 27, Council Procedures, of the Municipal Code.

DRIVEWAY – Any space on private property used or intended to be used by vehicles to park or to access parking.

GUARD – The same meaning as Toronto Municipal Code Chapter 629, Property Standards, which, for reference purposes only, means a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways or other locations to prevent accidental falls from one level to another.

OPEN-FENCE CONSTRUCTION – Fence construction that provides motorists and pedestrians with an unobstructed view of people, vehicles and their movements through the entire length of the fence.

PARKING LOT – A driveway, not on single residential property, intended for the parking of vehicles.”
  - C. Table 1 in subsection 447-2B is amended by deleting the third column of the table, labelled “Fence on Multiple Residential Property” and by changing the title of the second column of the table from “Fence on Single Residential Property” to “Fence on Single or Multiple Residential Property.”

- D. Table 1 in subsection 447-2B is amended by replacing the current height requirements for a fence in a front yard within 2.4 metres of a front lot line with “1.2 metres”.
- E. Table 1 in subsection 447-2B is amended by replacing “Fence in flankage yard within 2.4 metres of side lot line and 2.4 metres of any driveway” with “Fence in flankage yard within 2.4 metres of side lot line and *within* 2.4 metres of any driveway”.
- F. Table 1 in subsection 447-2B is amended by replacing “Fence in flankage yard not within 2.4 metres of side lot line and 2.4 metres of any driveway” with “Fence in flankage yard not within 2.4 metres of side lot line and *within* 2.4 metres of any driveway”.
- G. Table 1 in subsection 447-2B is amended by replacing the current height requirements for a fence in a flankage yard within 2.4 metres of a side lot line and within 2.4 metres of any driveway with “2 metres”.
- H. Table 1 in subsection 447-2B is amended by replacing “Fence on unroofed deck” with “Fence on a roofed deck and not on a front or flankage yard.”
- I. Table 1 in subsection 447-2B is amended by replacing “Fence abutting multiple residential property” with “Fence abutting multiple residential property and not on a front or flankage yard.”
- J. Add the following subsection to § 447-2 as follows:
- “C. Open fence construction required.
- Despite Table 1:
- (1) Any fence within 2.4 metres of any driveway shall be an open mesh chain-link fence or of an equivalent open fence construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or highway; and
- (2) In the case of a parking lot, any fence shall be an open mesh chain-link fence or of an equivalent open fence construction anywhere it may otherwise restrict the sight lines of vehicular or pedestrian traffic in the parking lot.”
- K. Add the following subsection to § 447-2 as follows:
- “D. Fence to meet guard requirements.
- (1) Where a fence is used as a guard, it shall be installed and maintained to comply with Toronto Municipal Code Chapter 629, Property Standards.

- (2) Despite D(1), if the guard forms part of a swimming pool enclosure, it shall comply with the requirements of § 447-3.”
- (3) If more than one bylaw provides requirements for the guard, the more restrictive provisions shall apply.

L. Add the following subsection to § 447-5 as follows:

“C. Fence exemptions.

- (1) A person given notice under this article may request to have the fence considered by Council or community council under delegated authority for a site-specific exemption from any of the requirements of this article on or before the date indicated on the notice of violation.
- (2) The community council in Subsection C(1) shall be the community council for the geographic area in which the fence is located.
- (3) If the fence is located in the geographic area of more than one community council, the matter shall be determined by Council, and notice of the matter will be given to the councillors of the wards in which the fence is located.
- (4) A request for an exemption under Subsection C(1) shall be in writing to the Executive Director of Municipal Licensing and Standards and shall be delivered to the issuing office, as indicated on the notice of violation.
- (5) When a request for an exemption has been received along with the required application fee under Subsection C(4), the Executive Director of Municipal Licensing and Standards, or his or her designate, shall report to Council or community council for consideration, and shall not take action under this article until the matter has been dealt with by Council or community council under delegated authority.
- (6) Council, or community council under delegated authority may:
  - (a) Grant the exemption, with or without conditions, and cancel the notice; or
  - (b) Confirm the notice and direct that a second notice be given under this article.
- (7) Subsection C(1) does not apply to a second notice given under Subsection C(6).”



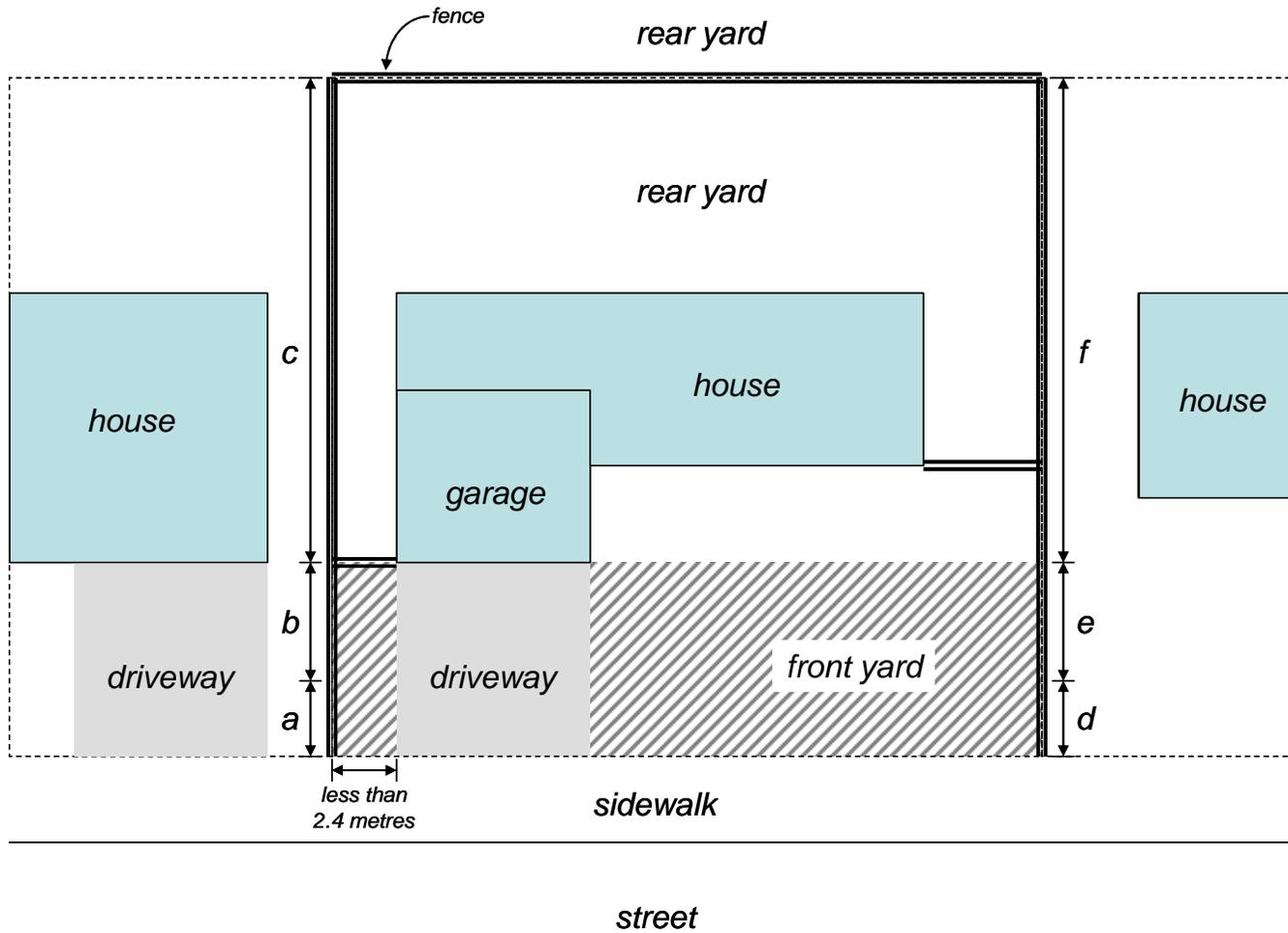
Figure 2:  
Example of fence within 2.4 metres of the front lot line and within 2.4 metres of the driveway



Figure 3:  
Driver's view from a vehicle on the driveway adjacent to the fence



Figure 4:  
General application of proposed standards



- a. Section of fence located within 2.4 metres of driveway must be of open fence construction and not exceed 1.2 metres in height.
- b. No requirement to be open fence construction but cannot exceed 1.2 metres in front yard.
- c. May be up to a height of 2.0 metres.
- d. Section of fence not within 2.4 metres of a driveway does not require open fence construction, but cannot exceed height of 1.2 metres.
- e. Cannot exceed 1.2 metres.
- f. May be up to 2.0 metres in height.