Public Notice

April 24, 2014

Application:
Zoning Amendment Bylaw 2014-17

Amend Zoning Bylaw 2011-23 by adding the following to Section 6.5.1 Fencing:

6.5.1.6 Temporary fencing, construction fencing or other fencing that is not permanently affixed to the ground, is only permitted on properties currently holding a valid building or demolition permit or for special events. Upon completion of the works outlined in the permit or conclusion of the event, any temporary fencing must be removed.

6.5.1.7 Notwithstanding Section 6.5.1.1, for all properties located in Commercial or Residential Zones, where a property is vacant, powder coated chain link fencing or solid wooden fence may be constructed to 1.8m in height in any zone with the following requirements:

(a) Powder coated chain link fence containing screening along all street frontages that has either:
   • A weather resistant banner containing art work that would not be considered offensive by the public; or
   • A mix of small and medium sized trees and shrubs planted along all street frontages and located behind the powder coated chain link fence; or
(b) Solid wooden fencing that contains artwork that would not be considered offensive by the public on all visible street frontages.

Information:
The staff report to Council and Zoning Amendment Bylaw 2014-17 will be available for public inspection from Friday, April 25, 2014 to Monday, May 5, 2014 at the following locations during hours of operation:

• Penticton City Hall, 171 Main Street
• Penticton Library, 785 Main Street
• Penticton Community Centre, 325 Power Street

You can also find this information on the City’s website at http://www.penticton.ca/EN/meta/city-news/latest-news.html.

Please contact the Planning Department at (250) 490-2501 with any questions.
Council Consideration:
Council will consider this application at a Public Hearing scheduled for 6:00 p.m. Monday, May 5, 2014 at the Penticton Trade and Convention Centre, 273 Power Street, Penticton.


Public Comments:
You may appear in person, or by agent, the evening of the Council meeting, or submit a petition or written comments by mail or email no later than 9:30 a.m., Monday, May 5, 2014 to:

Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton, B.C. V2A 5A9
Email: publichearings@penticton.ca.

No letter, report or representation from the public will be received by Council after the conclusion of the May 5, 2014 Council Meeting.

Please note that all correspondence submitted to the City of Penticton in response to this Notice will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author’s address relevant to Council’s consideration of this matter and will disclose this personal information. The author’s phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.

Those persons with special hearing, language or access needs should contact City Hall at (250) 490-2400 prior to the meeting.

Anthony Haddad, MCIP
Director of Development Services
Staff Recommendation

THAT “Zoning Amendment Bylaw 2014-17”, a bylaw to amend “City of Penticton Zoning Bylaw 2011-23” to add regulations pertaining to temporary fencing be given first reading, and forwarded to the May 5th, 2014 Public Hearing;

AND THAT “Bylaw Notice Enforcement Amendment Bylaw 2014-18”, being a bylaw to amend Appendix 7 of “Bylaw Notice Enforcement Bylaw 2012-5037” adding a fine of $100.00 for violating the temporary fencing provisions of the Zoning Bylaw be given first, second and third reading and forwarded to the May 5th, Regular Meeting of Council for adoption.

Strategic Priority Objectives

N/A

Background

Construction fencing and other forms of temporary fencing are important to ensure safety and security during those times that a property is under demolition, construction or in a state where a property is temporarily not safe to access or access needs to be restricted. Often though, property owners will leave temporary fencing up after demolition or partial construction, where more permanent fencing should be erected if the desire is to keep people off of the property on a long term or permanent basis. This is especially prevalent in cases where a property owner is marketing a property for redevelopment. Temporary fencing though, is viewed as unaesthetic, especially in the downtown, tourist and general commercial areas and residential areas (Attachment ‘A’).

While the property maintenance sections of the Good Neighbour Bylaw provides direction on the responsibility of property owners to ensure that any property that they own is kept in a well kempt state, the City’s current policies regarding temporary fencing is currently somewhat unclear, as neither the Zoning Building or the Good Neighbour Bylaws provide specific rules and regulations regarding the use of temporary fencing or have any requirement with regards to an appropriate fence or screening type for vacant sites. The proposed changes to the Zoning Bylaw will provide clear direction on when temporary
fencing is appropriate and when it will be required to be removed or replaced with permanent fencing that is screened with an attractive appearance.

In addition, staff are proposing amendments to the Bylaw Notice Enforcement Bylaw to add a fine to correspond to the proposed regulations, which will be consistent with other such fines.

Proposal

Staff are proposing the following amendments to the Zoning Bylaw and Bylaw Notice Enforcement Bylaw:

**Zoning Bylaw**

6.5.1.6 Temporary fencing, construction fencing or other fencing that is not permanently affixed to the ground, is only permitted on properties currently holding a valid building or demolition permit or for special events. Upon completion of the works outlined in the permit or conclusion of the event, any temporary fencing must be removed.

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(b) Solid wooden fencing that contains artwork that would not be considered offensive by the public on all visible street frontages.

**Bylaw Notice Enforcement Bylaw Amendments**

ADD:

Appendix 7

<table>
<thead>
<tr>
<th>Description of Offence</th>
<th>Bylaw Section</th>
<th>Fine</th>
<th>Early Payment</th>
<th>Late Payment</th>
<th>Compliance Agreement Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary fencing installed contrary to zoning</td>
<td>6.5.1.6 &amp; 6.5.1.7</td>
<td>$100.00</td>
<td>$90.00</td>
<td>$110.00</td>
<td>Yes</td>
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Analysis

Support
Ensuring that the City’s bylaws and policies are proactive, enforceable and current is important in having buy-in and compliance from the community. In regard to temporary fencing and vacant properties, the City’s policy has lacked clarity. This has led developers and property owners to use temporary fencing inappropriately, which detracts from the community, especially in high profile locations. The bylaw amendments proposed by staff clearly outline when temporary fencing is permitted (during construction and demolition) and what fencing is more appropriate for vacant properties (permanent fencing). Staff feel that the Good Neighbour Bylaw adequately deals with the state of vacant properties and are not proposing any additional regulations in regard to the condition of vacant properties. The Good Neighbour Bylaw ensures that properties, vacant or not, are kept in a well kempt manner at all times, including removing accumulations of debris or rubbish and maintaining landscaping.

The proposed amendments add penalties for those property owners that do not follow the regulations. The proposed amendments to the Bylaw Notice Enforcement Bylaw also provide for the opportunity for a property owner that is in non-compliance to the regulations to enter into a compliance agreement that would set a course to bring the property into compliance without the requirement to pay a penalty. Staff feel that the regulations outlined above are necessary, clear and easy to follow and recommend that Council support the proposed amendments.

In addition, staff would like to use this opportunity to make a housekeeping change to Bylaw Notice Enforcement Bylaw. In order to be consistent with the Fees and Charges Bylaw, Appendix 10 – "B" Ticket Infraction; column A1 Fine should read $55 not $50.

Deny
Council may feel that the way that temporary fencing is currently dealt with is sufficient. If that is the case, then Council should not support the proposed bylaw amendments. Alternatively, Council may wish to refer the proposed amendment back to staff with changes that Council feels are appropriate.

Alternate Recommendations

1. THAT Council deny first reading to Zoning Amendment Bylaw No. 2014-17 and Bylaw Notice Enforcement Amendment Bylaw No. 2014-18.

2. THAT Bylaws 2014-17 and 2014-18 be referred back to staff.

Attachments

Attachment A: Images of temporary fencing and vacant properties
Respectfully submitted,

Blake Laven, RPP, MCIP
Planner

Approvals

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<tr>
<th>Director</th>
<th>City Manager</th>
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Attachment ‘A’
Images of temporary fencing and vacant lots

Figure 1: Image of a property on Main Street, temporary fencing has been up for over 5 years

Figure 2: Winnipeg Street, temporary fencing has been up well after construction is complete
Figure 3: Vacant property on Westminster Avenue with permanent fencing (doesn’t currently meet the Zoning Bylaw fence height provisions)

Figure 4: Vacant property with permanent fencing and screen banner
WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act; 
AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23; 
NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2014 -17.”

2. **Amendment:**

   2.1 Zoning Bylaw 2011-23 is hereby amended by adding the following to section 6.5.1 Fencing:

   6.5.1.6 Temporary fencing, construction fencing or other fencing that is not permanently affixed to the ground, is only permitted on properties currently holding a valid building or demolition permit or for special events. Upon completion of the works outlined in the permit or conclusion of the event, any temporary fencing must be removed.

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READ A FIRST time this day of , 2014
A PUBLIC HEARING was held this day of , 2014
READ A SECOND time this day of , 2014
READ A THIRD time this day of , 2014
ADOPTED this day of , 2014

Notice of intention to proceed with this bylaw was published on the __ day of____, 2014 and the __ day of____, 2014 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

________________________________________
Garry Litke, Mayor

________________________________________
Dana Schmidt, Corporate Officer