

## Bylaw 17727

### Text Amendment to Zoning Bylaw 12800 to Amend Privacy Screening Requirements

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#### **Purpose**

The purpose of this Bylaw is to implement measures to address development of privacy screening on Platform Structures, overlook from rooftop terraces, and alignment of windows and amenity areas between neighbours.

#### **Readings**

Bylaw 17727 is ready for three readings after the public hearing has been held. If Council wishes to give three readings during a single meeting, Council must unanimously agree "That Bylaw 17727 be considered for third reading."

#### **Advertising and Signing**

This Bylaw has been advertised in the Edmonton Journal on Friday, August 5, 2016, and Saturday, August 13, 2016. The Bylaw can be passed following third reading.

#### **Position of Administration**

Administration supports this Bylaw.

#### **Previous Council/Committee Action**

At the April 26, 2016, Executive Committee meeting, the following motion was passed:

That Administration prepare amendments to Zoning Bylaw 12800, as generally outlined in Attachment 1 of the March 8, 2016, Sustainable Development report CR\_2365, and return to a future City Council Public Hearing.

#### **Report**

Current Zoning Bylaw 12800 regulations relating to privacy are generally incomplete and ambiguous, which presents challenges with implementation and enforceability of the regulations. This often leads to uncertain outcomes through the development permit review process, and in certain cases a perceived loss of privacy.

Continued refinement of Zoning Bylaw 12800 provides an opportunity to address specific issues relating to the perceived loss of privacy between neighbours. To achieve these outcomes, Bylaw 17727 proposes the following amendments:

- create a definition of privacy screening
- establish locational and height parameters for construction of privacy screening

- apply the setback requirements for rooftop terraces in the (RF3) Small Scale Infill Zone to all development on sites abutting a zone where Single Detached Housing is a permitted use or the (RF5) Row Housing Zone
- introduce submission requirement for site specific information regarding the location of windows and amenity areas on neighbouring properties relative to the windows of a proposed development within the boundaries of Mature Neighbourhood Overlay

The proposed amendment, as described in Attachment 2 – Mark-up of Proposed Text Amendment, provides easily interpreted and measurable rules to avoid privacy and overlook issues between neighbouring properties. Further detail on the rationale of the proposed amendment and adjustments made to the allowable height of privacy screening constructed on a platform structure can be found in Attachment 3 – Privacy Screening Height Comparison.

### Privacy Screening Definition and Development Regulations

There is currently no definition of privacy screening in Zoning Bylaw 12800. The absence of a definition of privacy screening introduces a significant degree of subjectivity and discretion into many development permit applications. Providing a definition of privacy screening outlines to applicants, Development Officers, and neighbours, clear expectations and requirements for specific materials and design features that constitute adequate privacy screening.

To accompany a definition for privacy screening, development regulations are necessary to ensure privacy screening is constructed in suitable locations and within reasonable height thresholds. This would include regulations for privacy screening constructed at grade, and above grade on platform structures and rooftop terraces.

As part of draft amendments presented at the April 26, 2016, Executive Committee meeting, Administration proposed that privacy screening constructed on platform structures shall not exceed a height of 1.85 metres in the rear yard and interior side yards and 1.2 metres (4 feet) in the front yard and flanking side yard, when measured from the surface of the platform. Following the meeting, an internal circulation identified that as a result of Bylaw 17422, approved November 16, 2015, platform structures less than 0.6 metres (2 feet) in height can be constructed to the rear and interior side property lines. As a result, a 1.85 metre (6 feet) high privacy screen could be constructed atop a 0.6 metre high platform structure directly on or near a property line. From a neighbour's perspective, this would appear as a 2.45 metres (8 feet) high fence or privacy wall.

Administration has revised the April 26, 2016, Executive Committee draft amendment (as proposed in this bylaw) to reduce the allowable height for privacy screening constructed on a platform structures to 1.2 metres when developed in a required side setback or within 2.5 metres of the rear lot line, as illustrated in Attachment 3 – Privacy Screening Height Comparison. Reducing the height of privacy screening constructed on

platform structures near rear yard property lines will reduce the overall appearance of added mass to the principal structure and height of privacy screening.

### Rooftop Terrace Definition and Development Regulations

Rooftop terraces and patios are a growing trend in Edmonton's infill and greenfield development areas. While these structures provide desirable amenity areas, they may create overlook and privacy issues. Requirements for stepping back rooftop amenity areas a reasonable distance from the face of the building below, can reduce overlook and privacy issues between neighbouring properties. A stepback may alleviate the necessity to provide rooftop privacy screening. This can create a more pedestrian friendly environment by reducing the appearance of vertical massing and ensuring structures maintain a human scale.

As part of Administration's previous project to address setbacks for Row Housing in the (RF3) Small Scale Infill Development Zone, stepback requirements for rooftop terraces were added to the (RF3) Small Scale Infill Development Zone for all uses. This change has generally been well received by community and as such this bylaw expands the stepback requirements for rooftop terraces in the (RF3) Small Scale Infill Zone to all development on sites abutting a zone where Single Detached Housing is a permitted use, or the (RF5) Row Housing Zone.

### Additional Information Requirements and Process Changes

Alignment of windows and amenity areas with windows on adjacent properties can create issues of overlook and a perceived loss of privacy. To ensure applicants consider the context of neighbours' window placement and amenity areas when designing a project, accurate site specific information can be prepared and submitted with development permit applications within the Mature Neighbourhood Overlay.

Provision of the location and alignment of windows and amenity areas on neighbouring properties will prompt applicants to take a proactive approach in considering potential issues of privacy and overlook. Consideration of context and potential privacy issues at the early design stage of a project will allow an applicant to easily adjust their design, without incurring additional design costs and lost time to make changes during the development review process. By promoting a proactive approach rather than reactive approach, loss of privacy between neighbours can be largely avoided and the development review process can become more efficient.

### **Policy**

Bylaw 17727 supports the following policies:

*The Way We Grow*, Municipal Development Plan, Bylaw 15100

- 4.2, Support neighbourhood revitalization, redevelopment and residential infill that contributes to the livability and adaptability of established neighbourhoods.
- 5.2, Require development to fit with the existing and planned neighbourhood context, to respect the scale, form, massing, style and materials of the

neighbourhoods and to incorporate other design elements that create a transition between the new development and the existing neighbourhood.

### **Corporate Outcomes**

This report contributes to achieving the corporate outcome “Edmonton is attractive and compact” as it provides options to improve the attractiveness and livability within all neighbourhoods, but especially mature neighbourhoods, as described in *The Way Ahead* – City of Edmonton Strategic Plan, 2009-2018.

### **Public Consultation**

Public consultation for this project was based on an initial meeting with Edmonton Federation of Community Leagues and Grovenor Community League representatives, and as part of consultation conducted on Side Setbacks for Row Housing in the (RF3) Small Scale Infill Development Zone (Sustainable Development report CR\_2397).

Public outreach included:

- placing an advertisement in the fall edition of community league newsletters
- placing advertisements in the Edmonton Federation of Community Leagues’ e-newsletter editions on September 2, 2015, and September 29, 2015
- distributing an electronic notice to community leagues advising them of the project
- distribution of Edmonton Federation of Community Leagues’ report entitled *The Effects of Infill on Residential Visual Privacy* to community leagues;
- a discussion item at the Edmonton Federation of Community Leagues’ fall general meeting
- publishing a project specific webpage

Despite these initiatives, there has been limited public response to these outreach efforts. Administration has proposed amendments to Zoning Bylaw 12800 based on feedback received through previously noted consultation events, as well as research on common approaches in North America and Australia, and in consultation with Administration.

As part of the Mature Neighbourhood Overlay Review public consultation process, the Edmonton Insight Community was asked a series of high level questions designed to gauge public acceptance of common themes within the Mature Neighbourhood Overlay. The survey contained two questions specific to privacy and overlook. The first question asked survey recipients what they thought was a reasonable level of privacy in their backyard and at home. Of the 3079 respondents, 69 percent thought that privacy should not be regulated, and that it can be obtained through other means such as the use of blinds, frosting, or landscaping. The second question asked survey recipients how they would feel if the City required privacy screening, in the form of a lattice or fences, on new decks or balconies. Once more, 71 percent of respondents believed that the City should not regulate privacy and that privacy could be obtained by individual actions such as, the use of lattice, balcony walls, or landscaping. Attachment 4 – Mature Neighbourhood Overlay Review Survey Summary summarizes the feedback received.

An internal circulation of the proposed amendments occurred in November 2015 and May 2016. No concerns or objections were received by Administration.

**Attachments**

1. Bylaw 17727
2. Mark-up of Proposed Text Amendment
3. Privacy Screening Height Comparison
4. Mature Neighbourhood Overlay Review Survey Summary