

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF APRIL 19, 2017

Item 4, Report No. 13, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on April 19, 2017.

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**ZONING BY-LAW AMENDMENT FILE Z.16.004
THE CORPORATION OF THE CITY OF VAUGHAN
GENERAL AMENDMENTS TO ZONING BY-LAW 1-88
REVIEW OF RESIDENTIAL AIR CONDITIONER (AC) REGULATIONS
ALL WARDS - CITY WIDE**

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Deputy City Manager, Planning & Growth Management, Director of Development Planning, and Senior Manager of Development Planning, dated April 4, 2017:

Recommendation

The Deputy City Manager, Planning & Growth Management, Director of Development Planning, and Senior Manager of Development Planning, in consultation with the Director of Building Standards and the Director of By-law and Compliance, Licensing and Permit Services, recommend:

1. THAT Zoning By-law Amendment File Z.16.004 (The Corporation of the City of Vaughan) BE APPROVED, to amend Zoning By-law 1-88 as follows:
 - i) to permit reduced interior side yard setbacks for central Air Conditioner units and heat pumps, as identified in Table 1 of this report; and,
 - ii) to introduce definitions for external ground mounted and wall mounted central Air Conditioner units and ground mounted heat pumps, as identified in Table 1 of this report.
 - iii) THAT the placement of Air Conditioner units shall be identified on the Site Plan and Landscape Plan for all townhouse dwelling units, which shall be reviewed and approved as part of the Site Development Application process, to the satisfaction of the Development Planning Department. The Pre-Application Consultation (PAC) request form shall also be updated to require central Air Conditioner units to be identified on the Site Plan and Landscape Plans upon application submission.

Contribution to Sustainability

There is no direct impact to sustainability with this report.

Economic Impact

There are no requirements for new funding associated with this report.

Communications Plan

A Public Hearing was held on October 5, 2016, to receive comments from the public and the Committee of the Whole on the proposed amendments to the Zoning regulations for central Air Conditioning (AC) and heat pump units and similar equipment in Zoning By-law 1-88. A Notice of Public Hearing was circulated on September 9, 2016, to the City of Vaughan Registered Community Ratepayer Associations, and the Building Industry and Land Development Association (BILD). Notices were also published in the September 8, 2016, editions of the

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Vaughan Citizen and Vaughan Liberal Newspapers, and on CityPage Online, the City Update E-Newsletter, and the City's website www.vaughan.ca. No additional notices were requested from the public or from the development industry.

The recommendation of the Committee of the Whole to receive the Public Hearing report of October 5, 2016, and to forward a comprehensive report to a future Committee of the Whole meeting, was ratified by Vaughan Council on October 19, 2016.

At the Public Hearing on October 5, 2016, deputations were made by Mr. Giorgio Dispenza, Fermar Drive, Maple; and Tony Conforti, Regent Crescent, Maple. Both deputants expressed concern with gas emissions and fumes being produced by older pool equipment, and when central AC units or heat pumps are located within the side yard they would have a negative effect on residential properties. In response to the above concerns, Development Planning Department staff offer the following comments.

With respect to emissions and fumes from older equipment, the City does not regulate or enforce air emissions testing for equipment such as central AC and heat pump units. The industry standards for emissions are set by regulations and requirements emanating from the Federal and Provincial levels of government. The AC Zoning Study prepared by DeLoyde Development Solutions did not advise of any concerns related to emissions and fumes from existing equipment prior to those expressed at the statutory public hearing. Property owners are responsible for ensuring that the units they purchase are in compliance with Provincial regulations, and that their units are in proper working condition.

In addition, while the responsibility for purchasing a compliant unit rests with the owners, the City enforces Property Standards By-law No. 231-2011, which requires property owners to repair, replace or remove damaged central AC or similar equipment units. Section 5.21 Subsection (1) of Property Standards By-law No. 231-2011, states: "*All heating, ventilation, and mechanical systems of a building shall be provided, maintained and operated free from safety hazards and kept in good repair.*" Review for compliance with the City's Property Standards By-law takes place upon the submission of a formal complaint filed with the By-law and Compliance, Licensing and Permit Services Department. Accordingly, property owners are encouraged to ensure that the installation of such units are in compliance with Property Standards By-law No. 231-2011, and adhere to the requirements of Zoning By-law 1-88.

On March 13, 2017, the Development Planning Department mailed a notice of this Committee of the Whole meeting to all individuals that appeared at the Public Hearing or requested notice regarding this file.

Purpose

This report seeks approval from the Committee of the Whole for Zoning By-law Amendment File Z.16.004 (The Corporation of the City of Vaughan) to amend Zoning By-law 1-88 regarding residential central Air Conditioner and heat pump regulations, as identified in Table 1 of this report including:

- i) to permit a reduced interior side yard setback for central Air Conditioner (AC) units and heat pumps; and
- ii) to introduce definitions for external ground mounted and wall mounted central Air Conditioner units and ground mounted heat pumps.

The proposed amendments to Zoning By-law 1-88 would implement Vaughan Council's adoption of the "Review of Residential Air Conditioner (AC) Regulations" report on June 7, 2016.

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Background - Analysis and Options

Synopsis:

Amendments the City's Zoning By-law 1-88 are proposed to permit reduced interior side yard setbacks for central AC units and heat pumps, and to introduce definitions for external ground and wall mounted central AC and ground mounted heat pumps. The Development Planning Department supports the proposed Zoning By-law Amendments as they implement the findings of the Vaughan Council directed review of central AC and heat pump units, while addressing builder compliance with the placement and location of residential central AC units, heat pumps, and other similar equipment.

AC Zoning Study

In 2014, Vaughan Council directed that City staff review appropriate mechanisms that are available to ensure builders are compliant with the placement and location of residential central AC units (Council Resolution 61, Report 36, dated September 9, 2014) as follows:

"That staff be directed to undertake a review of the mechanisms available to ensure that builders comply with pertinent By-laws of the City when placing or erecting accessory structures including air conditioners."

In 2015, City staff retained an external consultant (DeLoyde Development Solutions Ltd.) to review existing regulations affecting the lawful placement of central AC units and heat pumps. The report entitled "AC Zoning Study" concluded the following:

- i) The City of Vaughan had restrictive zoning regulations affecting the lawful placement of AC units and heat pumps in comparison with other similar municipalities (Attachment #2); and,
- ii) The interior side yard is an appropriate location for central AC units and heat pump units.

The consultant's review also concluded that de-regulation is not appropriate in meeting the needs and expectations of Vaughan residents. As such, the study recommended revisions to Zoning By-law 1-88, which are referenced in this report. The revisions being proposed include a reduced interior side yard to central AC and heat pump units, legalize existing locations of central AC and heat pump units where they comply with the proposed zoning standards; and, provide definitions of ground-mounted central AC and heat pump units as well as wall-mounted central AC units.

The findings of the AC Zoning Study were considered by the Vaughan Committee of the Whole on May 31, 2016, in a report titled "City of Vaughan Review of Residential Air Conditioner (AC) Regulations", and ratified by Vaughan Council on June 6, 2016 (Attachment #2). Vaughan Council directed staff to commence the process to amend Zoning By-law 1-88, to reflect the findings in the AC Zoning Study. On October 5, 2016, the Vaughan Committee of the Whole considered the Public Hearing report titled "General Amendments to Zoning By-law 1-88 – Review of Air Conditioner (AC) Regulations", which was ratified by Vaughan Council on October 19, 2016. A recommendation in the report directed that a comprehensive report be prepared to identify any issues by the Vaughan Development Planning Department.

Zoning By-law 1-88

The City of Vaughan has a framework for regulating the lawful siting of central AC and heat pump units. The City's Zoning By-law 1-88, Noise By-law, and Subdivision Agreements are tools currently used by the City to create a suitable framework to govern the legal placement of these

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units. Additionally, warning clauses and/or conditions have been implemented in Subdivision Agreements for new residential developments advising builders and purchasers of the need to comply with Zoning By-law 1-88, as it relates to the lawful placement of central AC and heat pump units. The placement of central AC units are also considered upon review of Site Development applications for townhouse developments, and such locations are to be approved by the Development Planning Department for delegated approvals, and by Vaughan Council for townhouse Site Development applications that are not delegated (e.g. common-element townhouse developments).

Zoning By-law 1-88 provides specific setback and locational requirements for the proper siting of a central AC unit on a residential lot. In many of the new and unassumed subdivisions within the City, builders and homeowners have installed AC units contrary to the Zoning By-law 1-88 setback requirements. Builders and homeowners cannot adhere to current Zoning By-law 1-88 requirements as they no longer reflect contemporary urban development standards where more intensified development has resulted in smaller lots, thereby establishing narrower side yard conditions. In larger lot areas, the proposed standards reflect those of other municipalities as identified in the AC Study, and respond to the often typical placement of AC units in the side yard. The current Zoning By-law 1-88 minimum interior side yard requirement for central AC and heat pump units is 1.2 metres, which ultimately creates non-compliance should a homeowner install any of these units within the interior side yard. As such, the current Zoning By-law 1-88 regulations for central AC and heat pump units are no longer practical for single detached dwellings or end townhouse units.

From 2010 to 2016, the City processed approximately 232 Minor Variance applications to address non-compliant locations of existing central AC and heat pump units. The proposed amendments to Zoning By-law 1-88 will bring many existing central AC and heat pump units, which currently do not comply with current Zoning By-law 1-88 standards, into compliance so they will be recognized as-of-right. Where further reductions are requested and/or required, which are not recommended as part of this report, builders/property owners will be required to relocate the AC and heat pump units to comply with the new By-law standards or seek relief from the By-law standards by submitting a Minor Variance application, and obtaining approval from the Vaughan Committee of Adjustment. Property owners are advised the Minor Variance application is subject to a public hearing process, and the submission of an application does not constitute approval.

Proposed Amendments to Zoning By-law 1-88

The following proposed Zoning By-law 1-88 amendments will implement the recommendation of Vaughan Council with respect to undertaking a review to ensure the lawful placement of central AC and heat pump units.

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Table 1:

Amendments for Residential Central AC Units and Heat Pumps in Zoning By-law 1-88			
	By-law 1-88 Standard	Section 3.14(d),(h), <u>General Provisions</u>, Requirements in Zoning By-law 1-88	Proposed Amendments to Section 3.14(d),(h), <u>General Provision</u>, in Zoning By-law 1-88
a.	Setback/Encroachment for Central Air Conditioner (AC) and Heat Pump Units into the Interior Side Yard, Rear Yard and Exterior Side Yard of any Residential Lot	<p>In Section 3.14(h):</p> <p>Notwithstanding the yard requirements of this By-law, and save as otherwise provided, the following shall be permitted in any required side yard or rear yard of residential lots:</p> <ul style="list-style-type: none"> - Central air conditioning units, heat pumps, pool equipment, or other similar equipment, provided that any such unit is set back a minimum of 1.2 metres from the interior side lot line, and may encroach 1.5 metres into the required rear yard and exterior side yard, provided that encroachment only occurs on yards with flankage on local roads. 	<p>Delete and replace Section 3.14(h) with the following:</p> <p>(h) Notwithstanding the yard requirements of this By-law, the following shall be permitted in any required side yard or rear yard of residential lots:</p> <p><u>External ground mounted</u></p> <ul style="list-style-type: none"> i) Central air conditioner and heat pump units shall be permitted in the interior side yard with a minimum setback of 0.6 metres. ii) Central air conditioner and heat pump units are permitted to encroach a maximum of 1.5 metres into the required rear yard and exterior side yard, provided that the encroachment only occurs on yards having flankage on local roads. <p><u>External wall mounted</u></p> <ul style="list-style-type: none"> i) Central air conditioner units shall be permitted in the interior side yard having a minimum setback of 0.3 metres. ii) Central air conditioner units are permitted to encroach a maximum of 1.5 metres into the required rear yard and exterior side yard, provided that the encroachment only occurs on yards having flankage on local roads.

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Amendments for Residential Central AC Units and Heat Pumps in Zoning By-law 1-88			
	By-law 1-88 Standard	<u>Section 3.14(d),(h), General Provisions, Requirements in Zoning By-law 1-88</u>	<u>Proposed Amendments to Section 3.14(d),(h), General Provision, in Zoning By-law 1-88</u>
b.	Definition of External Ground Mounted Central and Wall Mounted Air Conditioner and Ground Mounted Heat Pump Units	Zoning By-law 1-88 does not define ground or wall mounted central air conditioner or heat pump units.	<p>Add the following to Section 2.0, Definitions:</p> <p>External ground mounted air conditioner and heat pump units – Means mechanical cooling and heating units that are located at grade on an all-weather concrete or equivalent pad(s).</p> <p>External wall mounted air conditioner units – Means mechanical cooling units that are permanently affixed to an exterior building wall and located a minimum of 0.3 metres above grade.</p>
c.	Permitted Encroachments	<p>In Section 3.14(d):</p> <p>No encroachment permitted in an interior side yard shall be closer than 1.2 metres to a line except eaves and gutters.</p>	<p>Delete and replace Section 3.14(d) with the following:</p> <p>d) Notwithstanding Paragraphs (a), (b), (c), no encroachment permitted in an interior side yard shall be closer than 1.2 metres to a property line except eaves, gutters, external central air conditioner and heat pump units.</p>

- a) Setback/Encroachment for Central Air Conditioner (AC) and Heat Pump units into the Interior Side Yard

The proposed amendments to the setback/encroachment provisions for central AC and heat pump units will permit reduced interior side yard conditions. There are no new proposed changes to the rear yard and exterior side yard encroachment provisions. Section 3.14(h) of Zoning By-law 1-88 currently requires a minimum setback for a central AC unit of 1.2 metres from an interior side lot line. The following matters were considered to assess the appropriateness of reduced interior side yard setbacks for central AC and heat pump units:

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i) Visual Impact

As recommended by the AC Zoning Study (Attachment #2), the interior side yard, rear yard, and exterior side yards are considered to be appropriate locations for central AC and heat pump units. By placing central AC units within an interior side yard it will assist in mitigating some visual impacts from the street and enable residents/builders to maximize the use and enjoyment of their rear yard amenity areas. Central AC units should continue to be discouraged from being located within front yards.

In some cases, there may be no location available for central AC units, except within a front yard. In these situations, appropriate screening shall be implemented to include substantial landscaping features including hedges, fence enclosures or walls integrated as part of the building design to mitigate any visual impact from the street. If AC units are to be located within the front yard, the builder/owner is encouraged to locate these units abutting the exterior stairs to provide easier access for maintenance, and to partially screen the unit.

The proposed location of all central AC units will be considered upon the review any Site Development Applications for all townhouse dwellings, as noted in the recommendation of this report. The Pre-Application (PAC) Meeting Request Form will also be updated to include a requirement that central AC units shall be identified on all site plans and landscape plans upon application submission. It is noted that the location of central AC units for single detached dwellings will not be subject to approvals under the site plan approval process, however they will be approved under the Building Permit review process.

ii) Noise and Vibration Impact

Central AC and heat pump units may generate noise and vibration. As identified in the AC Study, newer models of central AC units are designed to minimize compressor and fan noise. Central AC units which are larger in capacity and lower in efficiency, may generate higher levels of noise. As AC units age, the AC compressors become progressively noisier, less efficient and more costly to operate, thereby prompting property owners to replace their units. New technology may also prompt the replacement of older AC units. In these cases, the issue of noise and vibration can be adequately mitigated.

The City of Vaughan's Noise By-law 96-2006 regulates noise emission to ensure compliance. The City's Noise By-law No. 96-2006 authorizes noise emissions up to 61 dBA, which is considered a higher noise emission allowance in comparison with other municipalities. Within Ontario, the Provincial noise emission standards under the Environmental Protection Act identify 55 dBA as a maximum day time standard, and 45 dBA during evening hours. Vibrations resulting from central AC units can be minimized by mounting these units on dampers.

Upon review by City staff, it was determined that given the minimal noise related complaints pertaining to central AC units, an amendment to the Vaughan Noise By-law was not required. Where larger capacity and lower efficiency central AC units may potentially generate relatively high levels of noise, they are discouraged, and should be replaced by quieter efficiency units. In order to minimize any potential noise impact, central AC units should be located away from window openings. Also, for the purpose of achieving sustainability targets, builders are also opting to install more efficient and quieter units.

The City of Vaughan's Property Standards By-law may also be used to compel residents to remove damaged or noisy AC units, and or other similar equipment. No changes are being recommended as part of this report to the Property Standards By-law. It should be noted the City of Vaughan Noise By-law is currently under review by City staff, and any amendments to the By-law will be considered through a separate review process.

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iii) Access and Drainage

Ground-mounted central AC and heat pump units are often located within the interior side yard of a residential lot. These units are typically mounted on all-weather concrete or equivalent pads. The impact of locating a central AC unit in the surface drainage area of a property is a key consideration for permitting such units within a side yard, as poor installation may lead to drainage issues during a large storm event, which may impact an abutting property. A minimum setback of 0.6 metres to an interior side yard is recommended to ensure that proper surface drainage is not impacted, as the minimum width of a drainage swale is typically 0.6 metres. The 0.6 metre setback will continue to allow sufficient access between abutting properties.

A minimum setback of 0.3 metres is recommended for units which are affixed to a building wall and situated a minimum of 0.3 metres above grade in order to allow surface drainage. Wall mounted central AC units do not block drainage flows during heavy rain storm events. Should any lesser setbacks be applied to ground mounted and wall mounted central AC and heat pump units, which were not contemplated as part of this review, the submission of a Minor Variance application is required in order to seek relief from the Zoning By-law standards.

b) Definition of External Ground Mounted Central and Wall Mounted Air Conditioner and Ground Mounted Heat Pump Units

The City's Zoning By-law 1-88 currently does not provide a definition for ground mounted central AC and heat pump units. Definitions for these units are identified in Table 1 and are intended to distinguish between ground and wall-mounted central AC units and where they are to be located. The proposed amendments are considered appropriate, as they will provide added clarity to implement the proposed changes to permit reduced setback requirements within an interior side yard of a residential lot.

c) Permitted Encroachments

The proposed amendments to the "Permitted Encroachments" provisions in Zoning By-law 1-88 include external ground mounted central AC and heat pump units, and external wall mounted central AC units. Zoning By-law 1-88 permits encroachments of less than 1.2 metres to a property line except for eaves and gutters. As a minimum setback of 0.6 metres is proposed for ground mounted central AC and heat pump units, and 0.3 metres for wall mounted central AC units, which are less than 1.2 metres to a side lot line, an amendment to Zoning By-law 1-88 is required. The proposed amendments will ensure consistency with the proposed changes to Section 3.14(h) in Table 1 of this report.

Summary

The Development Planning Department supports the amendments to the central AC and heat pump unit requirements as stipulated in Sections 3.14, General Provisions, specifically to items d) and h), to permit reductions to the interior side yard; and, to introduce definitions for external ground mounted central AC and heat pump units, and external wall mounted central AC units within Zoning By-law 1-88. The proposed amendments to amend Zoning By-law 1-88, implements the direction of the AC Study, as approved by Vaughan Council.

Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

This report supports the following priority set forth in Term of Council Service Excellence Strategy Map (2014-2018):

- Continue to ensure the safety and well-being of citizens

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Regional Implications

There are no Regional implications resulting from this review as AC units and heat pumps in residential areas are located on private property.

Conclusion

The current zoning standards regulating the lawful placement of central AC and heat pump units no longer reflect contemporary urban development standards. In consideration of intensified forms of development and the findings of the AC Study, the introduction of reduced interior side yard setbacks are considered appropriate. The appropriateness of locating central AC and heat pump units within the side yard will enable citizens/builders to maximize the use and enjoyment of their rear backyards. The setbacks proposed are also appropriate to ensure that proper access and drainage is maintained. Builders and residents are encouraged to install central AC units which satisfy the minimum performance and safety codes as enforced by Provincial and Municipal regulations. The introduction of definitions for ground and wall mounted AC and heat pump units provides clarity of interpretation of the Zoning By-law.

The Development Planning Department is satisfied that Zoning By-law Amendment File Z.16.004 implements the recommendations of Vaughan Council to address zoning compliance to ensure the lawful placement of central AC and heat pump units. Therefore, the Development Planning Department supports the approval of the Zoning By-law Amendment Application, subject to the recommendations in this report.

Attachments

1. Context Location Map
2. City of Vaughan Review of Residential Air Conditioner (AC) Regulations Report (May 31, 2016, and adopted by Vaughan Council on June 7, 2016)

Report prepared by:

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(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)