

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2002-034

A by-law to regulate fences and privacy screens

THE COUNCIL ENACTS AS FOLLOWS:

Definitions and Interpretation

1. In this by-law:

- (1) "boundary fence" means a fence located or partially located within .91 metres (3 feet) of a property line;
- (2) "corner lot" means a lot situated at the intersection of two or more highways or at the intersection of two parts of the same highway meeting at an angle of not more than 135 degrees;
- (3) "erect a fence" includes altering, constructing, or relocating a fence, maintenance involving the replacement of more than 50% of the length of any section of a fence, and causing or permitting the erection of a fence;
- (4) "fence" means a protective, enclosing or visual barrier of posts, wire, boards, rails, pickets, pilings, wood, metal, fibreglass, plastics, masonry, or similar materials or any combination thereof, and includes a wall or partition that is not an integral part of a building, but does not include a trellis or arbour.
- (5) "hedge" means a continuous line of shrubs or other plant material functioning as a fence or barrier;
- (6) "highway" includes a common and public highway, street, avenue, parkway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the property lines thereof;
- (7) "lawful fence" means:
 - (a) any fence complying with the regulations prescribed in this by-law regardless of the date erected;
 - (b) any fence grandfathered under the provisions of this by-law;
 - (c) any fence erected in compliance with a variance granted under the provisions of the *Planning Act*, R.S.O. 1990, c. P.13 as amended.

- (8) “% open construction” means constructed in a manner to permit uniform direct passage of light and air through the fence in a manner that when viewed at 90 degrees or 45 degrees to the line of the fence, the area of daylight visible through the fence exceeds the prescribed percentage of the surface area of the fence within any 900 cm² (1 square foot) area;
- (9) “privacy screen” means a fence exceeding 2 metres in height other than a fence under section 6 of this by-law;
- (10) “section of a fence” means the portion of a fence along a single line or boundary;
- (11) “Town” means The Corporation of the Town of Oakville;
- (12) “visibility triangle” means the area within a triangle formed by measuring a prescribed distance along two specified intersecting lines and a third line joining the terminal points of the two measured lines;
- (13) “yard” means any open, uncovered, unoccupied space appurtenant to a building and
 - (a) “front yard” means a yard extending across the full width of a lot between the front lot line and the nearest main wall of any building on the lot;
 - (b) “flankage ” means the side yard of a corner lot adjacent to the highway;
 - (c) “rear yard” means a yard extending across the full width of the lot between the rear lot line and the nearest main wall of any building on the lot;
 - (d) “side yard” means a yard extending from the front yard to the rear yard between the side lot line and the nearest main wall of any building on the lot;where the front lot line, side lot line, and rear lot line are interpreted in accordance with the Zoning By-law of the Town of Oakville, regardless of the location of any front door or driveway;
- (14) “zone” means an area designated for a specified land use under the Zoning By-law of the Town of Oakville, and “residential zone” and “agricultural zone” shall have corresponding meanings.

2. The imperial measurements included in this by-law are for information only and are intended to be an approximate conversion of the metric measurements which shall prevail in the event of any conflict.

Calculation of Height

3. The height of a fence at any given point shall be measured from the grade at the base of the fence, exclusive of any artificial embankment, provided:
 - (1) where changes in grade contours along the fence line result in changes in height of the fence, the height of the fence is deemed to be the average height of the fence over any 2.44 metre (8 foot) portion.
 - (2) where grade elevations between adjacent lots differ at the boundary between the lots, the height of any boundary fence between the two lots shall be calculated in accordance with section 7 of this by-law.

Visibility Triangles - Driveways and Corner Lots

4. No person shall erect a fence or keep any hedge greater than .91 metres (3 feet) in height at any point:
 - (1) within a 10.67 metre (35 foot) visibility triangle, measured along the property line at the intersection of any two highways or at the intersection of two parts of the same highway meeting at an angle of not more than 135 degrees;
 - (2) within a 2 metre (6 foot 6 inch) visibility triangle measured at the intersection of any driveway and the property line of any highway.

General Height Restrictions - Residential Zones

5. The maximum height of a fence in a residential zone shall be:
 - (1) 2 metres (6 feet 6 inches) in height in any yard other than a front yard;
 - (2) 1.5 metres (5 feet) in height in a front yard, provided any portion of the fence exceeding 1 metre (3 feet 3 inches) in height shall be of at least 40% open construction.

6. Notwithstanding Section 5, but subject to the provisions for visibility triangles in Section 4 of this by-law:
- (1) gates may exceed the height restrictions prescribed in Section 5 by a maximum of 30 centimetres (1 foot), subject to the requirements for open construction for fences in front yards;
 - (2) archways forming part of an entrance may exceed the height restrictions to a maximum of 2.3 metres (7 feet 6 inches);
 - (3) decorative caps on structural posts may exceed the prescribed height restrictions to a maximum of 15 centimetres (6 inches);
 - (4) boundary fences in side yards or rear yards or flankages may be 2.2 metres (7 feet 4 inches) in height provided any portion of the fence over 1.9 metres (6 feet 2 inches) in height is of at least 40% open construction;
 - (5) the maximum height of a fence erected immediately adjacent to a building as a false facade shall be the height of the building provided the fence does not cover any window.
 - (6) a fence may be erected in a rear or side yard enclosing any tennis court or similar private sports facility not including a pool that is:
 - (a) no higher than 3.7 metres (12 feet);
 - (b) constructed of chain link with adequate posts, support wires and bracing of a corrosive resistant or treated material;
 - (c) not closer than 0.6 metres (2 feet) to any property line.

Special Provision - Grade Differences between Lots

7. Where grade elevations of adjacent lots differ:
- (1) the height of any boundary fence shall be measured from the mean grade elevation between the two lots;
 - (2) the portion of any boundary fence exceeding 2 metres (6 feet 6 inches) as measured from the lower of the two grades shall be of at least 40% open construction.

Height Restrictions - Privacy Screens

8. In a residential zone, other than land used for multiple attached dwelling units, a privacy screen may be erected in a rear yard or a side yard, provided:

- (1) the privacy screen is located at least .91 metres (3 feet) from any property line;
 - (2) the maximum height of the privacy screen shall be 2 metres (6 feet 6 inches) plus an additional 0.3 metres (1 foot) in height for each additional 0.3 metres (1 foot) that the privacy screen is set back from the property line, to a maximum of:
 - (a) 2.9 metres (9 feet 6 inches) if erected at ground level; and
 - (b) 2 metres (6 feet 6 inches) above a deck or platform if erected on the deck or platform.
 - (3) the portion of any privacy screen exceeding 2 metres (6 feet 6 inches) in height as measured from the ground shall be of at least 40% open construction.
 - (4) no privacy screen on a corner lot shall be closer to the highway than the portion of the main building nearest to the highway;
 - (5) no privacy screen shall exceed 9 metres (29 feet 6 inches) in length along any section of the fence or 12 metres (39 feet 4 inches) in total length.
9. In a residential zone used for multiple attached dwelling units, privacy screens are not permitted, other than fences erected upon a deck or platform in a rear yard which are permitted provided:
- (1) the maximum height of the privacy screen shall be 2 metres (6 feet 6 inches) measured from the floor of the deck or platform;
 - (2) the maximum projection of a privacy screen from the building shall be 3.7 meters (12 feet);
 - (3) the privacy screen shall be set back at least .91 metres (3 feet) from any property line other than a property line which is the extension of a common wall between two dwelling units;
 - (4) no privacy screen on a corner lot shall be closer to the highway than the portion of the building nearest to the highway.

Height of Fences other than in Residential Zones

10. The maximum height of fences in zones other than residential zones shall be 2 metres (6 feet 6 inches) provided a higher fence may be erected to the extent required by law or for public safety or for the protection of property.

Restrictions on Fence Materials and Construction

11. No person shall erect a fence or cause a fence to be erected:
- (1) which is wholly or partly constructed of barbed wire;
 - (2) which is electrified;
 - (3) in a manner that renders an existing swimming pool enclosure into non-conformity with the requirements of a by-law of the Town of Oakville applying to swimming pool enclosures;
 - (4) if the fence is constructed of brick, stone, cement, or masonry and more than 0.6 metres (2 feet) of height, without a building permit issued by the Chief Building Official of the Town of Oakville;
 - (5) if of wire or board or otherwise requiring post supports, without adequate posts of 10 centimetre by 10 centimetre (4 inch by 4 inch) wood, or metal posts of comparable strength at intervals not exceeding 4.8 metres (16 feet), and sunk into the ground not less than 0.6 metres (2 feet);
 - (6) with the structural members or posts located facing an abutting property without the consent of the owner of that property unless the fence is a chain link fence.
12. Notwithstanding Section 11, where required for the safety or protection of property in a zone other than a residential zone, the portion of any fence above 2 metres (6 feet 6 inches) may be wholly or partially constructed of barbed wire.
13. Notwithstanding Section 11, an electrified fence may be erected on land within an agricultural zone, provided such fence:
- (1) has a maximum 12 volt trickle charge;
 - (2) is designed and erected solely to contain animals; and
 - (3) has attached thereto, at approximately 15 metre (49 foot 2 inch) intervals, a sign warning that the fence carries electricity.

Prohibition of Fences on Town Land

14. No person shall erect a fence on Town property, including any public highway without the express prior written consent of the Town.

Application of By-law

15. In the event of a conflict between the provisions of this by-law and the provisions of a by-law regulating pool enclosures within the Town of Oakville or the provisions of the Town of Oakville Zoning By-law the provisions of those by-laws shall prevail over the provisions of this by-law to the extent of any conflict.
16. Nothing in this by-law applies to prohibit the construction of a noise barrier, which is erected with the approval of the Town of Oakville under an Engineering or similar agreement, or a fence or wall required by the Town of Oakville as a condition of subdivision approval or site plan approval, or to fences for which variances have been granted pursuant to the provisions of *Planning Act*.
17. Nothing in this by-law exempts a fence from the requirements of other applicable legislation including the *Ontario Building Code*, the *Ontario Heritage Act*. or prevents the construction of a railing required by the *Ontario Building Code*.
18. The provisions of this by-law do not apply to fences erected by the Town of Oakville, Region of Halton or other governmental authority.
Notwithstanding this provision, the Town shall be guided by and adhere to the provisions of this by-law except where necessary for matters of public safety, protection of property or abatement of public nuisances.

Variances

19. This by-law is designated under Section 45(3) of the *Planning Act*, R.S.O. 1990, c. P.13 as a by-law implementing the Official Plan of the Town of Oakville and the Committee of Adjustment for the Town of Oakville is empowered to grant variances from the provisions of this by-law.

Grandfathering

20. Fences erected prior to the coming into force of this by-law are deemed to be lawful fences to the extent of compliance with the regulations for fences contained in any by-law then applicable. To the extent of any non-

compliance with previous by-laws governing fences, such fences shall be required to comply with this by-law.

General Prohibition

21. No person shall erect, have or permit a fence other than a lawful fence on property owned or occupied by that person.

Offence

22. Every person who contravenes any provision of this by-law is guilty of an offence and is liable upon conviction to a penalty of not more than \$5,000.00, exclusive of costs under the *Provincial Offences Act*.

Severability

23. Where a court of competent jurisdiction declares any section or part of a section of this by-law to be invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

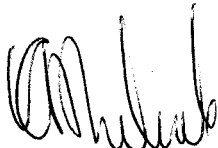
Repeal

24. By-law 1991-247 as amended is hereby repealed.
25. By-law 1994-15 is hereby repealed.

Short Title

26. This by-law may be cited as the "Fence By-law".

PASSED by the Council this 2nd day of July , 2002.



Ann Mulvale

MAYOR



Cathie L. Best

CLERK