



BY-LAW NO. 2002-0060

**BEING A BY-LAW to regulate the erection of Fences
within the Town of Halton Hills**

WHEREAS the Council of a municipality may pass a By-law to regulate the erection of Fences by virtue of the provisions of Section 210 of the *Municipal Act*, c. M. 45, R.S.O. 1990, as amended;

AND WHEREAS the Council of a municipality may pass a By-law to prescribe standards for the maintenance and occupancy of Property within the municipality and to require Property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and level condition by virtue of the Section 15.1 of the *Building Code Act*, 1992, S.O. 1992, c. 23;

AND WHEREAS Council of the Corporation of the Town of Halton Hills has enacted By-law No. 85-147, as amended, pursuant to the authority contained in Section 15.1 of the *Building Code Act*, S.O. 1992, c. 23;

AND WHEREAS By-law No. 85-147 is hereby further amended as specifically set out herein;

AND WHEREAS it is deemed advisable to regulate Fences within the corporate limits of the Town of Halton Hills;

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF HALTON HILLS ENACTS AS FOLLOWS:

1. **Definitions**

In this by-law,

- (1) "Agricultural Zone" means any area designated as an agricultural zone under the provisions of any restricted area by-law in force in the Town of Halton Hills and any Lot where the predominant use is for agricultural purposes.
- (2) "Animal" means cattle, goat, horse, sheep or swine and without limiting the generality of the foregoing shall mean any domesticated animal but does not include a dog or cat.
- (3) "Commercial Zone" means any area designated as a commercial zone under the provisions of any restricted area by-law in force in the Town of Halton Hills and any Lot where the predominant use is for commercial purposes.
- (4) "Committee" means the Community Affairs Committee appointed pursuant to Section 11 of this By-law.
- (5) "Corner Lot" means a Lot situated at the intersection of two or more streets having an angle of intersection of not more than one hundred and thirty-five degrees (135°).

- (6) "Council" means the Council for the Corporation of the Town of Halton Hills.
- (7) "Effective Ground Level" means the existing ground level upon which the Fence is erected on or to be erected upon.
- (8) "Electrical Fence" means a Fence through which electricity passes.
- (9) "Fence" includes a railing, wall, line of posts, wire, gate, boards, pickets, Privacy Screens or other similar substances, used to enclose or divide in whole or in part a Yard or other land or to provide privacy.
- (10) "Front Lot Line" means a line that divides a Lot from the street, provided that in the case of either a Through Lot or a Corner Lot, the line dividing the Lot from the street upon which the property is addressed shall be deemed to be the Front Lot Line.
- (11) "Highway" includes a common and public highway, street, avenue, parkway, driveway, 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 lateral Property lines thereof and Highway and street shall have corresponding meanings.
- (12) "Industrial Zone" means any area designated as an Industrial zone under the provisions of any restricted area by-law in force in the Town of Halton Hills and any Lot where the predominant use is for industrial purposes.
- (13) "Lot" means any parcel of land which can be separated or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of subdivision.
- (14) "Officer" is an employee of the Town of Halton Hills appointed as a Municipal Law Enforcement Officer and shall include a Property Standards Officer.
- (15) "Open Type Construction Fence" means a Fence constructed so that at least one third of its vertical surface area is open space, enabling motorists and pedestrians to have a clear view through such Fence.
- (16) "Owner" includes,
 - (a) the person for the time being managing or receiving the rent of land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and
 - (b) a lessee or occupant of the Property who, under the terms of a lease, is required to Repair and maintain the Property in accordance with the standards for the maintenance and occupancy of Property.
- (17) "Privacy Screen" means a visual barrier used to shield any part of a Yard from view from any adjacent Lot or Highway.
- (18) "Property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, Fences and erections thereon whether heretofore or hereafter erected, and includes vacant Property.

- (19) "Repair" includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a Property conforms with the standards established in this by-law.
- (20) "Residential Zone" means any area designated as a residential zone under the provisions of any restricted area by-law in force in the Town of Halton Hills and any Lot where the predominant use is for residential purposes.
- (21) "Sight Triangle" means:
- (a) that portion of a Corner Lot within the triangular space formed by the Street Lines and a straight line drawn from a point in one Street Line to a point in the other Street Line, each such point being:
- Local to Local Highways
- (i) 4.5 metres (14.7 feet) measured along each Street Line from the point of intersection of the Street Lines;
- Local/Collector to Collector Highways
- (ii) 7 metres (22.9 feet) measured along each Street Line from the point of intersection of the Street Lines;
- Local/Collector to Regional/MTO Highways
- (iii) 12 metres (39.3 feet) measured along each Street Line from the point of intersection of the Street Lines; or
- (b) such other Sight Triangle set out;
- (i) in the relevant sections of the Town of Halton Hills Zoning By-laws, as amended, or
- (ii) in a site plan agreement, for a particular Lot.
- (22) "Street Line" means the boundary between a Highway and private land which separates private land from an abutting Highway.
- (23) "Through Lot" means a Lot other than a Corner Lot having two separate Lot lines on two streets.
- (24) "Town" means the Corporation of the Town of Halton Hills.
- (25) "Wire" does not include a chain link Fence or a Fence that is manufactured for that purpose.
- (26) "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, and lying between the Front Lot Line of the Lot and that part nearest to the Front Lot Line of any building or structure on that Lot;

- (b) "Interior Side Yard" means a Side Yard other than an Exterior Side Yard, which Side Yard extends from the Front Yard to the Rear Yard, between the side Lot line and the main wall nearest to the Interior Side Yard Lot line of the main building or structure on that Lot;
- (c) "Exterior Side Yard" means the Side Yard of a Corner Lot, which Side Yard extends from the Front Yard to the Rear Yard between the side Street Line and the main wall nearest to the exterior Side Yard Lot line of the main building or structure on that Corner Lot;
- (d) "Rear Yard" means a Yard extending across the full width of a Lot between the rear Lot line of that Lot and the main wall nearest to the Rear Yard Lot line of the main building or structure on that Lot;
- (e) "Side Yard" means a Yard extending from the Front Yard to the Rear Yard between the side Lot line and the main wall nearest to the side Lot line of the main building or structure on that Lot.

Attached as Schedule "A" is a diagram outlining the location of the various Yards for reference purposes only and shall not form part of this by-law.

- 2. (1) This By-law applies to all Fences and Privacy Screens erected in the Town of Halton Hills, except as otherwise provided by this By-law.
- (2) A Fence erected in accordance with a permit issued under the Swimming Pool Fence By-law prior to the date of passing of this By-law is deemed to be in conformity with the By-law.
- (3) In the event of any conflict between the provisions of this by-law and any provisions of the Town's zoning by-laws, salvage yard licensing by-law, swimming pool fence by-law and the parks by-law, or any other by-law, relating to fencing, the provisions of those by-laws shall prevail over the provisions of this by-law.
- (4) The provisions of Sections 4 and 5 of this by-law do not apply to fencing provisions contained in a Site Plan Agreement, Subdivision Agreement or any other development related agreement executed by the Town, or to a Fence that is constructed for the purpose of continuing a Fence that is authorized under a subdivision agreement or to Awards made pursuant to the *Line Fences Act* or to an Order issued by the Town pursuant to any by-law or provincial legislation.

3. **Authority**

- (1) The Enforcement Division of the Town shall be responsible for the administration and enforcement of this By-law.

4. **General Fence Provisions**

- (1) No person shall, in any Yard or Lot erect, cause to be erected or maintain or permit a Fence that is greater than 2.74 metres (9 feet) above Effective Ground Level.
- (2) No person shall, in a Residential Zone within any Interior Side Yard, Exterior Side Yard or Rear Yard erect, cause to be erected or maintain or permit a Fence exceeding 2.13 metres (7 feet) in height.

- (3) No person shall, in a Residential Zone within a Front Yard erect, cause to be erected or maintain or permit a Fence exceeding 0.9 metres (3 feet) in height .
- (4) No Fence, in a Residential Zone, when measured at any point along its length from the highest grade within one metre on either side of the Fence shall exceed 0.9 metres (3 feet) in a Front Yard or 2.13 metres (7 feet) in a Rear Yard or Side Yard.
- (5) Notwithstanding Section 1 (10) of this by-law, on a Corner Lot where a driveway is not located within the same Yard as the street address of the Property, the line dividing the Lot from the street upon which the driveway is located shall be deemed to be the Front Lot Line.
- (6) The provisions of this by-law do not apply to a Fence erected upon, or abutting, land which is used for industrial purposes, for a railway right-of-way, or for hydro, telephone or utility installations, or for public works installations which are hazardous to the public, or to municipal recreational facilities.
- (7) The provisions of this by-law do not apply to a person who erects or causes to be erected a privately owned outdoor tennis court, provided the Fence is of chain link construction.
- (8) No person shall erect or cause to be erected a Fence constructed with plywood or scrap metal.
- (9) Notwithstanding Section 4(2), no person shall in any Yard or Lot erect, cause to be erected, or maintain or permit a Fence that obstructs the view of a motorist or is determined to be a safety hazard under any other legislation or by-law.
- (10) Notwithstanding any of the provisions set out in this by-law, no person shall erect, cause or permit to be erected or maintain a fence that obscures clear visibility of normal approaching pedestrian or vehicular traffic.
- (11) Where a rear yard of one property abuts the front yard of an adjoining property and the safety of passing pedestrians and vehicular traffic may be affected from any vehicular movement by the presence of a solid type rear yard fence, then that portion of the fence erected within 4.5 metres of the nearest street line shall be an open type construction fence.

Amended by
By-law 2005-0079
July 11, 2005

Amended by
By-law 2005-0079
July 11, 2005

5. **Fences within Sight Triangles**

- (1) No person shall erect, cause or permit to be erected or maintain a Fence within a Sight Triangle greater than a height of 0.9 metres (3 feet).

6. **Open Type Construction Fences**

Notwithstanding the provisions of sections 4 and 5, no person shall erect, cause or permit to be erected or maintain an Open Type Construction Fence higher than metres 1.71 metres (5 feet 6 inches) in a Sight Triangle or a Front Yard.

7. **Maintenance**

- (1) Every person who owns a Fence shall maintain such Fence in a good state of Repair:

- a) by the Fence being complete, standing in a vertical position and securely anchored;
- b) with no components of the Fence broken, rusted, rotted or in a hazardous condition;
- c) and free from graffiti.

8. **Fences with Barbed Wire or Other Hazardous Material**

- (1) No person shall erect, cause or permit to be erected or maintain along any Highway adjacent to a Residential Zone, a Fence which contains, or is constructed of any hazardous material.
- (2) No person shall erect, cause or permit to be erected or maintain in a Residential Zone a Fence which contains, or is constructed of barbed wire, chicken wire, Wire or cable.
- (3) Notwithstanding Section 8(2) nothing shall prevent the construction of farm Fences or barbed wire Fences in an Agricultural Zone.
- (4) Notwithstanding Section 8(2) nothing shall prevent the construction of a barbed wire Fence in an Industrial or Commercial Zone.
- (5) No person shall erect or cause to be erected a barbed wire Fence except in accordance with this by-law and provided that the barbed wire is used on the top of and to the inside of the Fence and inclined toward the enclosed area of an agricultural, industrial or commercial Property.

9. **Electrical Fences**

- (1) Except as provided in this by-law, no person shall erect or cause to be erected, an Electrical Fence on any land.
- (2) An Electrical Fence using direct current may be erected on land while it is being lawfully used for agricultural purposes, provided such Fence;
 - (a) has a maximum 12 volt trickle charge;
 - (b) is designed and erected solely to contain Animals, and
 - (c) has attached thereto at approximately 15 metre intervals, a sign warning that the Fence carries electricity.

10. **Amendment of By-law 85-147**

11. **Establishment of a Variance Committee**

- (1) The Community Affairs Committee as appointed by the Mayor for a term to run concurrent with the term of Council shall hear applications for variances from the height provisions of this by-law.

12. **Powers of the Community Affairs Committee**

- (1) The Committee, upon application of the Owner of any land affected by this by-law, or any person authorized in writing by the Owner, may authorize a variance from the provisions of this by-law.
- (2) The Committee, upon reviewing an application for a variance, shall consider:
 - (a) whether the request is minor in nature;

- (b) whether the proposed variance is desirable and in keeping with the Fences in the area; and
- (c) whether the proposed variance effects safety or sight lines.

13. **Application and Hearing Process**

- (1) The hearing on any application for a variance shall be held within forty (40) days after the application is received by the Clerk's Department for the Town.
- (2) The Owner, before the Committee hears any application, shall give notice of the application in a manner and containing the information set out in Section 13(5).
- (3) The Owner shall post a notice containing the information set out in Section 13(5), clearly visible and legible from a public Highway at least ten (10) days before the day of the hearing on an application for a variance to this by-law.
- (4) Notice of a hearing on an application for a variance shall be circulated by the Clerk's Department to the following:
 - a) By-law Enforcement Department for the purpose of preparing a report outlining staff's recommendation on the request for a variance;
 - b) Public Works and Engineering Department for the purpose of providing comments on any traffic related concerns to the By-law Enforcement Department.
- (5) The posted Notice of a hearing shall include the following:
 - a) The date, time and location of the hearing.
 - b) An explanation of the purpose and effect of the proposed variance.
 - c) A description of the subject land or the municipal address.
 - d) How to obtain additional information regarding the application.
 - e) How to obtain a copy of the decision.
- (6) The hearing of every application shall be held in public, and the Committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the Committee may adjourn the hearing or reserve its decision.
- (7) No decision of the Committee on an application is valid unless it is concurred in by the majority of the members of the Committee that heard the application, and the decision of the Committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.
- (8) Any authority or permission granted by the Community Affairs Committee may be for such time and subject to such terms and conditions as the Community Affairs Committee considers advisable and as are set out in the decision.
- (9) The Clerk's Department shall not later than ten (10) days from the making of the decision send one (1) copy of the decision,
 - (a) to the applicant;
 - (b) to each person who appeared in person or by counsel or by agent at the hearing and who filed with the Clerk's Department a written request for notice of the decision; and
 - (c) to By-law Enforcement and Public Works and Engineering Departments.

- (10) The applicant or any other person or public body who has an interest in the matter may within twenty (20) days of the making of the decision appeal to the Council against the decision of the Committee by filing with the Town Clerk a notice of appeal setting out the objection to the decision and the reasons in support of the objection.
- (11) The Clerk's Department, upon receipt of a notice of appeal filed in accordance with the provisions of this by-law, shall set a date for Council to hold a hearing on the appeal.
- (12) If within such twenty (20) days no notice of appeal is given, the decision of the Committee shall be forwarded to Council. After considering the decision of the Committee, the Council may thereupon in respect of such application make any decision that it might have made had it conducted the hearing itself.
- (13) The decision of Council regarding an application for a variance shall be final and binding.

14. **Penalty**

- (1) Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act, R. S. O. 1990, c. P. 33*.

15. **Severability**

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

16. **By-law Repealed**

By-law Number 1987-0104 is hereby repealed.

BY-LAW given first and second reading on the 27th day of May, 2002.

MAYOR – Kathy Gastle

CLERK – Karen Landry

BY-LAW given third and final reading on the 10th day of June, 2002.

MAYOR – Kathy Gastle

CLERK – Karen Landry

Yards

