

The Corporation of the Township of Selwyn

Fence By-law 2016-032

Being a By-law to Prescribe Standards for the Construction and Maintenance of Fences within the Township of Selwyn

Whereas Section 11 (3) 7 of the Municipal Act. R. S. O. 2001, as amended, provides that a municipality may pass By-laws respecting structures, including fences and signs; and

Whereas Section 9 of the Municipal Act. R. S. O. 2001, S.O. 2001 c. 25 as amended, provides that a municipality has the capacity, right, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Section 8 of the Municipal Act. R. S. O. 2001, provides that the powers of a municipality as granted by the Act or any other Act shall be interpreted broadly so as to a) enable the municipality to govern its affairs as it considers appropriate and b) enhance the municipalities ability to respond to municipal issues; and

Whereas Section 425 (1) of the Municipal Act. R. S. O. 2001, authorizes a municipality to pass a By-law providing that a person who contravenes a By-law passed under this Act is guilty of an offence; and

Whereas the Council of the Township of Selwyn deems it necessary to regulate the building and maintenance of fence structures within the Township of Selwyn;

Now Therefore the Council of the Corporation of Township of Selwyn enacts as follows:

1. Short Title

This By-law may be referred to as the **Fence By-law**.

2. Definitions

a) **“Chief Building Official”** means the Chief Building Official as appointed, on behalf of the Township of Selwyn, and his or her designate.

b) **“Corner Lot”** means a lot situated at the intersection of two or more streets or private roads, having an angle of intersection of not more than 135 degrees. The front lot line is deemed to be the shorter line abutting the street.

c) **“Daylight Triangle”** means the triangular space formed on a corner lot (‘Corner Lot’) by the street lines and a line drawn from a point in one street line, to a point in the other street, each point being 9.0 Metres measured along the street line from the point of intersection of the street lines. Where the street lines do not intersect at a point, the point of intersection of the street lines (or tangents) shall be deemed to be the intersection of the projection of the street, or the intersection of the tangents to the street line.

d) **“Fence”** means any structure used to enclose or divide, in whole or in part, a yard or other land to establish a property boundary inclusive of any hedges consisting of a dense line of bushes or small trees.

e) **“Ground level”** means the level of the grade adjacent to the fence excluding any gardens, flower planters or built up landscaping to allow the fence to be higher than regulated under this By-law.

- f) **“Height”** means the vertical distance measured from the ground level where the fence posts are embedded to the top of said fence excluding the post. Where a fence is located on the top of a retaining wall, “height” shall mean the vertical distance measured from the top of the retaining wall to the highest point of the fence excluding the post.
- g) **“Hoarding Fence”** means a fence or similar structure used to enclose a property or part thereof which is under development, site alteration or maintenance.
- h) **“Lot”** means a parcel of land, the boundaries of which are defined in the last registered instrument by which legal or equitable title to the said parcel was lawfully and effectively conveyed or which a whole lot as shown on a Registered Plan of Subdivision subject to the provisions of the Planning Act, R.S.O. 1990.
- i) **“Lot line”** means any boundary of a lot or the vertical projection thereof.
- j) **“Lot line front”** means, in the case of an interior lot, the line dividing the lot from the street or private right of way. In the case of a corner lot, the shorter lot line abutting a street or private right of way shall be deemed the front lot line and the longer lot line abutting a street shall be deemed an exterior side lot line.
- k) **“Officer”** means a By-law enforcement officer or building inspector employed by the Township of Selwyn.
- l) **“Owner”** means a registered owner of lands and includes a lessee, tenant, mortgagee in possession or the person in charge of any property.
- m) **“Principal Building”** means a building or structure in which primary use is conducted.
- n) **“Public Uses and Utilities”** means use of any lot for the purposes of public services provided by the Township or any Public Authority including the County of Peterborough, Government of Canada and Ontario, Conservation Authority, Hydro One, telephone and telecommunication and natural gas companies.
- o) **“Snow Fencing”** means a fence commonly used for the control of snow and which is usually constructed of plastic mesh, lightweight wood strip or wire fencing.
- p) **“Street Line”** means the limit of the street or road allowance which is the dividing line between the lot or block and the street.
- q) **“Township”** means the Corporation of the Township of Selwyn.
- r) **“Waterbody”** means any bay, lake, canal or natural watercourse but excludes a drainage or irrigation channel.
- s) **“Yard - Front”** means a yard extending across the full width of the lot between the front lot line, the line dividing the lot from the street, and the ‘Front Wall’ of the ‘Principal Building’ on the lot.
- t) **“Yard - Rear”** means a yard extending across the full width of the lot between the rear lot line, and the ‘Front Wall’ of the ‘Principal Building’ on the lot.
- u) **“Yard - Exterior Side”** means the side yard of a corner lot which side yard extends from the exterior side lot and the nearest main wall of the ‘Principal Building’ on the Lot.

v) **“Yard - Side”** means a yard extending from the Front Yard to the rear yard of a lot between a side lot line and the nearest wall of the ‘Principal Building’ on the Lot.

w) **“Yard - Water”** means a yard extending the full width of the lot between the waterbody and the rear wall of the ‘Principal Building’ on the lot.

x) **“Zone”** means a zone as designated in the Township of Selwyn Zoning By-law as amended pursuant to the Planning Act.

3. Application of this By-law

3.1 This By-law shall apply to all Fences erected in the Township on and after the date of enactment and passage of this By-law.

3.2 All Fences shall be maintained in a good state of repair and in a safe condition.

4. Exemptions

Notwithstanding Section 3, a Fence, as provided below, shall be exempt from all parts of this By-law with the exception of Part 10 Maintenance of Fences.

- a) A Fence erected in accordance with an approved Site Plan or Subdivision Agreement.
- b) A Fence erected for Public Uses and Utilities.
- c) Hoarding Fence erected as required by applicable Federal, Provincial and Municipal regulations to meet safety, storage, crowd control, public safety or security and theft deterrence.
- d) Snow Fencing used temporarily to control snow or as Hoarding Fence to protect property undergoing construction. Such Snow Fencing shall be removed upon completion of the winter season or construction.
- e) Large hedges or a line of trees acting as a Fence in a side or rear yard that do not cause any visual obstruction to persons or vehicles while entering or exiting a driveway or traveling along a street, lane or sidewalk.

5. Existing Fences

5.1 Notwithstanding the provisions of this By-law to the contrary, any Fence that was in lawful existence prior to the effective date of this By-law shall be deemed to comply with this By-law and may be maintained at the same location, height and dimensions as previously existed.

5.2 Any Fence in existence at the date of passing of this By-law, which does not conform to the provisions herein, and which, anytime thereafter, is in need of replacement or reconstruction, shall be built in conformity with the provisions of this By-law.

6. Restricted Fences

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained the following:

- a) Snow Fencing as part or in place of permanent fencing.
- b) A Fence comprised of sheet metal or corrugated metal panels.
- c) A Fence that contains or is constructed of any hazardous materials such as razor wire, barbed wire, or any other sharp projections capable of causing physical injuries to humans. Such materials may be used for bona fide agricultural purposes for livestock containment and may also

considered in the Industrial Zone and used at a height of 1.8 metres above ground level at the discretion of the CBO.

- d) A Fence or any attachment to a Fence which may be used as a conductor of an electrical current save and except for the purposes of managing livestock as part of an active agricultural facility.
- e) A Fence erected, which by reason of its location, design or materials, obstructs traffic sightlines or which obstructs or detracts from the visibility or effectiveness of any traffic sign or traffic control device on a public street.

7. Residential Fences

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a lot in a Residential Zone except in accordance with the following regulations:

- a) A fence erected within a rear or side yard shall not exceed a height of 1.8 metres (6'-0").
- b) A fence erected in a water yard shall not exceed the height of 1.2 metres (4'-0").
- c) A fence erected in a front or exterior side yard shall not exceed 1 metres (3'-3") in height.

8. Non-Residential Fences

8.1 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a lot in a non-residential Zone except in accordance with the following regulations:

- a) The maximum height of a fence located in a non-residential Zone is 2.4 metres (8'-0").
- b) Notwithstanding Section 8.1 a), the maximum height of a fence located within 7.6 metres from the front lot line shall not exceed 1.2 metres (4'-0").

9. Daylight Triangles

Notwithstanding any other provisions of the By-law, no person shall, within a Daylight Triangle, as defined herein, erect or cause to be erected a Fence which would obstruct the vision of drivers or motor vehicles. Maximum height is 0.6 Metres (2 Feet).

10. Maintenance of Fences

The owner of the land on which a Fence is erected (installed) shall maintain such Fence in a good state of repair to ensure that the Fence:

- a) is structurally sound condition, plumb and securely anchored,
- b) is protected by weather-resistant materials,
- c) components are not broken, rusted, rotten or in a hazardous condition,
- d) is stained or painted and is maintained free of peeling, and
- e) does not present an unsightly appearance deleterious to the abutting land or neighbourhood and is free of markings or other defacements on the exterior surface.

11. Fence Variance

11.1 A variance may be authorized by the Chief Building Official, if in his/her opinion the Fence is not causing a visual obstruction to persons or

vehicles while entering or exiting a driveway or travelling along a street, lane or sidewalk. The variance approval process is as follows:

- a) Submission of an application form prescribed by the Chief Building Official.
- b) Submission of applicable drawings, site plan and specifications for the proposed Fence; and
- c) Payment of the requisite fee.

11.2 In considering an application for a variance, the Chief Building Official shall have regard for:

- a) Whether there are any special circumstances or conditions applying to the property or building(s) on the surrounding property.
- b) Whether such special circumstances or conditions are pre-existing; and
- c) Whether the fence that is subject of the variance application will cause any safety hazards to the proposed location, or cause a visual obstruction to persons or vehicles while entering or exiting a driveway or travelling along a street or lane.

12. Administration and Enforcement

12.1 Any person who contravenes any of the provisions of this By-law, is guilty of an offence and upon conviction liable to a fine or penalty for each offence, exclusive of costs as prescribed by the Provincial Offences Act, R.S.O. 1990.

12.2 Every provision of this By-law is declared to be severable from the remainder of the By-law, and if any provisions of this By-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the By-law.

12.3. That the fee for an application for a Fence Variance as set in Section 11.1 c) be established through the Township of Selwyn Consolidated Fees By-laws.

13. Existing By-law Repeal

That Smith-Ennismore By-law No. 1998-41 and Lakefield By-law 81-6 are hereby repealed effective May 1, 2016.

14. Effective Date

That this By-law come into full force and effect on May 1, 2016.

By-law read a first, second and third time and finally passed this 26th day of April, 2016.

Mayor, Mary Smith

Clerk, Angela Chittick