



OAKVILLE

**CONSOLIDATED VERSION AS OF March 28, 2022 – AMENDED BY BY-LAW 2011-130, 2021-038, 2022-031**

**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:
  - (1.1) “Administrative Penalties for Non-Parking Violations and Orders By-law” means By-law 2021-038, or successor by-laws; **(By-law 2021-038)**
  - (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; **(By-law 2011-130)**
  - (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.
- (7.1) “Officer” means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers and Halton Regional Police Officers; **(By-law 2021-038)**
- (7.2) “penalty notice” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law; **(By-law 2021-038)**
- (7.3) “person” includes an individual, a corporation, a partnership, and an association, and includes a licensee or an authorized representative thereof; **(By-law 2021-038)**
- (8) **Deleted by By-law 2011-130**
- (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;
- (b) “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.
  - 2.1 This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2021-038)**

### **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 commercially available open lattice (**By-law 2011-130**)
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 commercially available open lattice; (**By-law 2011-130**)
  - (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 commercially available open lattice. **(By-law 2011-130)**

### **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 .9 1 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 commercially available open lattice. **(By-law 2011-130)**
  - (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 abutting property without the consent of the owner of that property unless the fence is a chain link fence.
- 11.1 No person shall replace, or cause or permit the replacement of any section of a fence, with anything other than similar suitable materials and in a manner that maintains a uniform appearance so as not to appear unsightly. **(By-law 2011-130)**
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.

#### **Administrative Penalties (By-law 2021-038)**

- 18.1(1) An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, including any Schedules, may issue a penalty notice to the person.
- 18.1(2) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the Town's rates and fees schedule.
- 18.1(3) If an Officer has issued a penalty notice under subsection 18.1(1) of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law, including any Schedules, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.
- 18.1(4) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's rates and fees schedule.
- 18.1(5) If an Officer has issued a penalty notice under subsection 18.1(3) of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law, including any Schedules, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.





- 18.1(6) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's rates and fees schedule.
- 18.1(7) A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2022-031)**

#### **Orders (By-law 2021-038)**

- 18.2(1) Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- 18.2(2) Any person who contravenes an order under this By-law is guilty of an offence.

#### **Service and Notice (By-law 2021-038)**

- 18.3(1) Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

#### **Variances (By-law 2011-130)**

- 19(1) Pursuant to section 23.2 of the *Municipal Act, 2001*, Council hereby delegates to the Director of Planning Services, or his or her designate, the power to authorize variances from the provisions of the Fence By-law.
- 19(2) Applications for variances from the Fence By-law shall be made in writing to the Director of Planning Services and shall include:
- (a) the application fee of \$125.00;
  - (b) the name, address and telephone number of the applicant;
  - (c) reference to the section of the by-law from which the exemption is being sought;
  - (d) a statement whether the proposed fence or privacy screen will be temporary or permanent;



- (e) reasons why the exemption is being sought;
  - (f) a property survey;
  - (g) a site plan;
  - (h) specifications pertaining to the description of the fence, construction and installation of the fence; and
  - (i) proof of notification to abutting neighbours by personal service or prepaid first class mail which indicates: (1) specifications of the fence, (2) reasons for the exemption request, and (3) objections must be forwarded to the Director of Planning Services within 10 days.
- 19(3) Upon reviewing an application for a variance, the Director of Planning Services 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 affects safety or sight lines.
- 19(4) The Director of Planning Services shall inform the applicant, as well as any abutting neighbours that submitted objections, by way of written notice setting out the grounds for the decision with reasonable particulars, and the right to appeal such decision to the Appeals Committee.
- 19(5) A request for an appeal to the Appeals Committee shall be made in writing to the Director of Planning Services setting out the reasons for the appeal within 10 days after service of the written notice, and shall be accompanied by an appeal fee of \$125.00 payable to the Town, which may be refunded in the Appeals Committee's discretion if the appellant is successful in the appeal.
- 19(6) Where no request for an appeal is received in accordance with subsection (5), the decision of the Director of Planning Services shall be deemed to be affirmed.
- 19(7) Where a request for an appeal is received, a hearing of the Appeals Committee shall be convened and the applicant shall be provided reasonable written notice thereof. The Appeals Committee may consider any matter in subsection (3).



- 19(8) Where an applicant makes a request for an appeal and fails to appear at the time and place scheduled for the hearing of the appeal, or requests an adjournment on the day of the scheduled hearing, the applicant shall pay to the Town an administrative fee of \$100.00, which may be refunded in the discretion of the Committee if the non-attendance was unavoidable or the adjournment is in the public interest, not prejudicial to the expeditious determination of the proceeding or otherwise justified.
- 19(9) The Rules of Practice and Procedure as set out in By-law 2010-163, as may be amended or replaced, apply to all hearings before the Appeals Committee.
- 19(10) The Director of Planning Services shall provide an annual report to Council summarizing the disposition of any variance applications or appeals.
- 19(11) Regardless of any authority delegated to the Director of Planning Services under this By-law, Council may, after notifying the Director of Planning Services exercise any authority that is delegated to the Director of Planning Services.

### **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.

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ANN MULVALE, MAYOR

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CATHY L. BEST, CLERK