



The Corporation of Norfolk County

By-Law 2015-131

Being a By-Law to Regulate the Height and Description of Lawful Fences within Norfolk County.

WHEREAS the Municipal Act, S.O. 2001, C.25, Section 10(2) as amended, provides that a single-tier municipality may pass by-laws respecting matters regarding structures, including fences and signs;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 8, as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 9(1) as amended, provides that municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

AND WHEREAS the Municipal Act, S.O. 2001, C.25, Section 9(1) as amended, authorizes a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence.

AND WHEREAS the Municipal Act, S.O. 2001, c.25, Section 446(1), as amended, provides a municipality with the authority to direct or require a person to do a matter or thing, and in default of it being done by the person directed to do it, the matter shall be done at a person's expense;

AND WHEREAS the Council of the Corporation of Norfolk County deems it necessary to regulate the building and maintenance of fence structures within Norfolk County

NOW THEREFORE the Council of The Corporation of Norfolk County hereby enacts as follows:

1 SHORT TITLE

1.1 This By-Law shall be known as the "Norfolk County Fence By-Law".

2 DEFINITIONS

2.1 In this By-Law:

AGRICULTURAL ZONE shall mean an *Agricultural Zone* as designated in the *Zoning By-law*.

BUILDING shall mean any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals or goods, but does not include a lawful boundary wall or *fence*.

CHIEF BUILDING OFFICIAL shall mean a chief building official appointed by Council pursuant to the *Building Code Act, 1992 S.O. 1992, Chapter 23* as amended.

COMMERCIAL ZONE shall mean a *Commercial Zone* as designated in the *Zoning By-law*.

COUNCIL shall mean the *Council* of The Corporation of Norfolk County.

COUNTY shall mean the Corporation of Norfolk County

ERECT shall mean to install, construct, reconstruct, alter, relocate or maintain, or cause to be installed, constructed, reconstructed, altered, relocated or maintained.

FENCE shall mean a wall, or barrier *erected at grade* for the purpose of delineating the boundaries of a *property*, restricting ingress or egress of a *property* or part thereof, or to enclose an outdoor area but excludes a *building, privacy screen or hedge*.

FENCE-VIEWER shall mean a fence-viewer appointed by *Council* pursuant to the *Lines Fences Act, R.S.O. 1990, c. L.17* as amended.

GRADE shall mean the average elevation of the finished surface of the ground immediately adjacent to and surrounding the *fence* or *privacy screen*.

HEDGE shall mean a continuous line of shrubs, coniferous or deciduous trees or other similar organic barrier which causes a visual obstruction.

HEIGHT shall mean the vertical distance above the *grade* or top of a deck or platform, measured from the base of the *fence* on the highest side, to the highest point of the *fence* exclusive of the posts.

HIGHWAY shall mean a common and public road, street, avenue, lane, 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 lateral *lot line* thereof.

INDUSTRIAL ZONE shall mean an *Industrial Zone* as designated in the *Zoning By-law*.

INSTITUTIONAL ZONE shall mean an *Institutional Zone* as designated in the *Zoning By-law*.

LIVESTOCK shall mean and include bovine, swine, poultry, horses, goats, sheep, ratites, fur bearing animals, deer, elk, game animals, birds and other animals identified as in the Ontario Ministry of Agriculture, Food, and Rural Affairs, Minimum Distance Separation (MDS) Formulae Implementation Guideline Factor Tables (Table 1) as amended..

LOT shall mean a parcel of land which can be legally conveyed.

LOT LINE shall mean any boundary of a *lot* and the vertical projection thereof.

MUNICIPAL LAW ENFORCEMENT OFFICER shall mean an officer or employee of the County appointed by *Council* for the purpose of enforcing County Bylaws and includes Police.

OWNER shall mean any person who owns the lands, and includes any authorized agent, manager, lessee or occupier of the lands upon which a *fence* is located and may be an individual, corporation, sole proprietorship or partnership.

PERSON shall mean an individual, firm, corporation, association or partnership.

PRIVACY SCREEN shall mean a visual barrier used to shield any part of a yard from view from any adjacent property or *highway* and excludes a *fence*.

PROPERTY shall mean a separately assessed *property* shown of the Municipality's Assessment Roll.

RESIDENTIAL PROPERTY shall mean a *property* not greater than 1 hectare in lot area, on which the primary use is residential regardless of the *Zone* in which the *property* lies.

RESIDENTIAL ZONE shall mean a *Residential Zone* as designated in the *Zoning By-law*.

VISIBILITY TRIANGLE shall mean a triangular area formed within a *lot* by:

- a) Intersecting property lines abutting a *highway* and a straight line connecting them 9.0 m from their point of intersection
- b) the intersection of a property lines abutting a *highway* and any portion of a driveway within 5.0 m of a *lot line* and a straight line connecting them 5.0 m from their point of intersection; or
- c) the intersection of an alley and a *highway*, or two alleys and a straight line connecting them 5.0 m from their point of intersection.

YARD, EXTERIOR SIDE shall mean a *yard* abutting a *highway*, and extending from the *front yard* to the *rear lot line* and from the *exterior side lot line* to the nearest part of the main *building* on the *lot*.

YARD, FRONT shall mean a *yard* extending across the full width of the *lot* between the front *lot line* of the *lot* and the nearest part of the main *building* on the *lot*.

YARD, INTERIOR SIDE shall mean a *yard* extending from the *front yard* to the *rear yard* and from the interior side *lot line* to the nearest part of the main *building* on the *lot*.

YARD, REAR shall mean a *yard* extending across the width of the *lot*, exclusive of any *exterior side yard*, between the rear *lot line* and the nearest part of the main *building* on the *lot*. If a *lot* has only three (3) *lot lines* and there is no rear *lot line*, the *rear yard* shall be the area extending across the full width of the *lot*, between the apex formed by the side *lot line* and the nearest part of the main *building* on the *lot*.

ZONE shall mean an area delineated on the Map Schedules of the *Zoning By-Law* and effect and designated for a specific use or specific uses.

ZONING BY-LAW shall mean any by-law administered by the *County* passed pursuant to Section 34 of the Planning Act, R.S.O. 1990, c.P.13, or a predecessor or successor thereof, as may be amended from time to time.

3 GENERAL REQUIREMENTS

3.1 The provisions of this section shall apply to all *fences* within Norfolk County.

3.2 No *person* shall *erect a fence or privacy screen* unless it is:

- a) constructed of materials specifically designed or commonly used for fencing purposes;
- b) uniform in colour and pattern;

- c) is in good repair, including being vertical, stable and structurally sound; and
 - d) is free of projecting fasteners and similar hazards.
- 3.3 No person shall *erect a fence* on *property* owned by the *County* without having the authority in writing to do so.
- 3.4 No person shall *erect a fence* in a *visibility triangle* with a *height* exceeding 1.0 m.
- 3.5 Every *owner* shall keep *fences* located on their *property* in good repair.
- 3.6 Except as permitted in Sections 5 and 6, no *person* shall *erect a fence* which contains barbed wire.
- 3.7 No *person* shall *erect a fence* which contains razor wire.
- 3.8 Except as permitted in Section 5, no *person* shall *erect a fence* equipped with a device for transmitting an electrical current on or through the *fence*.
- 3.9 No *fence* shall be located or *erected* so as to block access to parking spaces required by the *Zoning By-Law* unless such *fence* is *erected* with a gate at least 3.0 m wide giving access to the parking space.
- 3.10 A *fence* enclosing a swimming pool shall conform to the Norfolk County By-law regulating swimming pool enclosures currently in effect.
- 3.11 A *fence* enclosing a licenced salvage yard shall conform to the By-Law regulating salvage yards currently in effect.

4 FENCES IN RESIDENTIAL ZONES

- 4.1 In addition to the requirements contained in Section 3, the following shall apply to *fences* in a *Residential Zone*.
- 4.2 A *fence* shall have a maximum *height* of:
- a) 1.0 m within a *front yard*.
 - b) 2.0 m within an *interior side yard*.
 - c) 2.0 m within a *rear yard*.
- 4.3 A *fence erected* within an *exterior side yard* and a *fence erected* adjacent to a highway other than within a *front yard* shall have a maximum *height* of:
- a) 2.0 m when the *fence* is located 6.0 m or more from the *lot line*.
 - b) 1.2 m when the *fence* is located 3.0 m or more from the *lot line*.
 - c) 1.0 m when the *fence* is located less than 3.0 m from the *lot line*.
- 4.4 For the purpose of this By-Law, adjacent to a *highway* shall include any *interior side yard* within 6.0 m of a *highway*.

5 FENCES IN AGRICULTURAL ZONES

- 5.1 A *fence* serving a *residential property* in an *Agricultural Zone* shall comply with Section 4

- 5.2 A *fence* equipped with a device for transmitting an electrical current on or through the *fence* may be erected, provided:
- a) the *fence* is erected on lands located in an *Agricultural Zone* and is actively being used for the purpose of confining *livestock*, and
 - b) the *fence* is not located adjacent to a *residential property*; and
 - c) permanent signs are erected at 10 m intervals identifying the presence of electrical current when the *fence* is *erected* on or adjacent to a property line; and
 - d) shall meet all applicable safety standards.
- 5.3 A *fence* containing barbed wire may be *erected* provided the *fence* is not located adjacent to a *residential property*.
- 5.4 Every *owner* of a *property* where *livestock* is being kept shall prevent the *livestock* from leaving the *property* by constructing a *fence*.
- 5.5 Every *owner* shall keep a *fence* intended to contain *livestock* in good repair.

6 FENCES IN COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL ZONES

- 6.1 In addition to the requirements contained in Section 3, the following shall apply to a *fence* in a *Commercial, Industrial or Institutional Zone*.
- 6.2 A *fence* serving a *residential property* in a *Commercial, Industrial or Institutional Zone* shall comply with Section 4.
- 6.3 No person shall *erect* a *fence* which contains barbed wire unless the barbed wire:
- a) is located on the top of a *fence* not less than 2.5 m or more in *height*;
 - b) projects inwards to the area enclosed by the *fence*; and

7 PRIVACY SCREENS

- 7.1 No person shall *erect* a *privacy screen* in any *Residential Zone* except as provided in Subsection 7.2.
- 7.2 *Privacy Screens* shall:
- a) not be *erected* in a *front yard*;
 - b) not be *erected* less than 6.0 m to any *lot line* abutting a *highway*;
 - c) not be *erected* less than 1.0 m to a rear *lot line*;
 - d) not be *erected* less than 1.0 m to a *lot line* within an *interior side yard* except where the *privacy screen* is located so as to provide a visual barrier between dwelling units divided by a common wall in which case the screen may be *erected* closer to the common *lot line*;
 - e) not be more than 15.0 m in total aggregate length with no single length longer than 5.0 m and a minimum distance of 1.5 m between single lengths;
 - f) not be *erected* more than 3.0 m in *height* above *grade*; and
 - g) not be *erected* more than 2.0 m in *height* if constructed on a deck or elevated platform.
- 7.3 For the purpose of this By-Law, adjacent to a *highway* shall include any *interior side yard* within 6.0 m of a *highway*.

8 EXEMPTIONS AND TRANSITION

8.1 This By-law shall not apply to:

- a) a *fence erected* by the *County*, or other Provincial or Federal governments;
- b) a *fence* in existence prior to the date of the enactment of the this By-law and is in compliance with other applicable regulations including Norfolk County By-Laws, shall be deemed to comply with this By-Law and may be maintained by the same material *height* and dimensions as previously existed including any repair work that may be done to the *fence*;
- c) a *fence* which is *erected* as required in a registered agreement or agreements entered into with the County pursuant to Section 41 or 51 of the *Planning Act R.S.O. 1990, c. P.13*, as amended, or any plans approved by the County in accordance with those sections; or
- d) a fence or hoarding on construction projects as required by *Occupational Health and Safety Act R.S.O. 1990 c.0.1*, as amended.

9 MINOR EXCEPTIONS

9.1 A minor exception may be authorized by the *Chief Building Official*, if in the *Chief Building Officials'* opinion the *fence* is not causing visual obstructions to persons or vehicles while entering or exiting a driveway or travelling along a *highway* or a sidewalk.

9.2 Any request for a minor exception must be made by completing and submitting:

- a) a form prescribed by the *Chief Building Official*;
- b) applicable drawings, plans specifications for the proposed *fence*; and
- c) the applicable fees as set out in the User Fees By-law.

9.3 In considering an application for minor exemption, the *Chief Building Official* shall have regard for:

- a) whether there are any special circumstances or conditions applying to the *property* or buildings on or surrounding the *property*;
- b) whether such circumstances or conditions are pre-existing; and
- c) whether the fence that is subject to the minor exception will cause any safety hazards.

9.4 The *Chief Building Official* shall inform the applicant, in writing of the decision within a reasonable time and shall keep a record with respect to the justification for any exception approval or denial.

9.5 The decision of the *Chief Building Official* shall be final.

10 ADMINISTRATION AND ENFORCEMENT

10.1 This By-law shall be administered and enforced by the *Municipal Law Enforcement Officer*.

10.2 A *Municipal Law Enforcement Officer* may enter upon any lands at any reasonable time to inspect any *fence* for the purpose of determining or effecting compliance with this By-law.

- 10.3 Where a *fence* has been *erected* or otherwise in contravention of any provisions of this By-law, the *Municipal Law Enforcement Officer* may:
- a) notify or issue an order to the *owner* to repair, remove, or bring the *fence* into compliance with the provisions of this By-Law; or
 - b) remove or cause to have removed the *fence* and charge the *owner* a fee in accordance with the User Fee By-Law of the County.
- 10.4 An order issued under this By-law may be served by registered mail or personal service.
- 10.5 If the *owner* fails to complete the work set forth in an order issued pursuant to Section 10.3 on or before any date specified therein, the *Municipal Law Enforcement Officer* or their agents may enter upon the *property* at any reasonable time for the purposes of completion of the works required by the order.
- 10.6 A *fence erected on property owned by the County or property managed by a public utility or local board without consent of the County, public utility or local board, may be removed and disposed of by the County without prior notice at the expense of the owner of the fence.*
- 10.7 Any costs incurred by the *County* under this By-law may be recovered in like manner and with the same priority as municipal taxes.
- 10.8 No *person* shall obstruct a *Municipal Law Enforcement Officer* or any agent of the *County* while they are carrying out their duties under this By-law.
- 10.9 Every *person* who contravenes the provisions of this By-law is guilty of an offence and, upon conviction, is subject to a fine as provided for in the *Municipal Act, 2001, S.O. 2001 c.25*, as amended and/or the *Provincial Offences Act R.S.O 1990, c.P.33* as amended; and to any other applicable penalties.
- 10.10 Any decision awarded by a *Fence-Viewer* shall be deemed to comply with the provisions of this By-law with respect to the *erection* or location of a *fence*.

11 SEVERABILITY AND INTERPRETATION

- 11.1 It is hereby declared that each and every part of the foregoing provisions of this By-law are severable. If any provision of this By-law should for any reason be declared invalid by any court, it is the intention and desire of this *Council* that each and every one of the then remaining provisions herein shall remain in full force and effect.
- 11.2 Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires.

12 PRECEDENCE OVER EXISTING BY-LAWS REGULATING FENCES

- 12.1 In the event of a conflict between this By-law and the provisions of another By-law regulating fences, the most restrictive provisions shall prevail.

13 REPEALS AND EFFECTIVE DATE

13.1 The following By-Law is hereby repealed:

Township of Delhi By-Law 614-83

13.2 That the effective date of this By-Law shall be the date of passage thereof.

ENACTED AND PASSED this 24th day of November, 2015.

Original By-Law Signed by:

Mayor C. H. Luke and Deputy Clerk Stephanie Godby