

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

BY-LAW NUMBER 2644-2014

A BY-LAW TO REGULATE FENCES IN THE TOWNSHIP

WHEREAS subsection 11(3)7 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “*Municipal Act, 2001*”), authorizes a municipality to pass by-laws respecting structures, including fences;

AND WHEREAS subsections 11(2)6 and 11(2)8 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws respecting the health, safety and well-being of persons and respecting the protection of persons and property;

AND WHEREAS the Council of The Corporation of the Township of North Dumfries deems it desirable to pass a by-law regulating fences within its jurisdiction;

NOW THEREFORE the Council of the Township of North Dumfries enacts as follows:

1. Short Title

1.1. This By-law may be cited as the “*Fence By-law*”.

2. Definitions

2.1. In this By-law,

- (a) “Agricultural Zone” means any of the following zones pursuant to the Zoning By-law: Z1, Z12, Z12A, Z12B, Z12C and Z14;
- (b) “Chief Building Official” means the Chief Building Official of the Township, or his or her designate;
- (c) “Committee of Adjustment” means the Committee of Adjustment of the Township;
- (d) “Corner Daylight Triangle” means the triangular area formed on a Corner Lot by measuring the distance of fifteen (15) metres (50 feet) along the Front Lot Line and Exterior Side Lot Line from their point of intersection, more particularly described in Schedule “A” attached hereto;
- (e) “Corner Lot” means a Lot situated at the intersection of and abutting upon two Highways, or upon two parts of the same Highway;
- (f) “Council” means the municipal council of the Township;

- (g) “Driveway Daylight Triangle” means the triangular area formed by measuring four (4) metres (13 feet) along the driveway from the Lot Line and four (4) metres (13 feet) along the Lot Lines adjoining the driveway in either direction, more particularly described in Schedule “A” attached hereto;
- (h) “Effective Ground Level” means the highest level of the ground within one (1) metre (3 feet, 3 inches) horizontally in any direction from the point being considered;
- (i) “Exterior Side Lot Line” means a Side Lot Line abutting a Highway;
- (j) “Exterior Side Yard” means a Side Yard that abuts a Highway;
- (k) “Farm Fence” means a Fence erected for the purpose of containing livestock, enclosing crops, water areas, woodlots, buildings, fields or laneways for the operation of agriculture;
- (l) “Fence” means any structure, wall or barrier, other than a building or part thereof, used for the purpose of enclosing or dividing a Lot or marking the boundary between abutting Lots;
- (m) “Front Lot Line” means the Lot Line that divides a Lot from a Highway, and
 - (i) in the case of a Corner Lot, the shorter line that abuts a Highway shall be the Front Lot Line;
- (n) “Front Yard” means a Yard extending across the full width of a Lot between the Front Lot Line and the nearest main wall of the principal building or structure on the Lot;
- (o) “Height” means the vertical distance measured from the Effective Ground Level where the Fence posts are embedded to the top of the Fence; where a Fence is located on top of a retaining wall, “Height” means vertical distance measured from the top of the retaining wall to the top of the Fence;
- (p) “Highway” means the same as defined in the *Municipal Act, 2001*;
- (q) “Lot” means a parcel of land with a boundary defined by an original survey or by a registered plan;
- (r) “Lot Line” means the boundary of a Lot as defined by an original survey or by a registered plan;
- (s) “Municipal Law Enforcement Officer” means an individual appointed by the Council of the Township pursuant to section 15 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended;

- (t) “Other Zone” means any of the following zones pursuant to the Zoning By-law: Z6, Z7, Z8, Z9, Z10, Z11, Z12, Z12A, Z12B, Z12C, Z13, Z14 and Z15;
- (u) “Owner” means the registered owner of the Lot, the occupant or tenant of the Lot, or a person who is managing the Lot;
- (v) “Rear Lot Line” means the Lot Line opposite to the Lot’s Front Lot Line;
- (w) “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 principal building or structure on the Lot;
- (x) “Residential Zone” means any of the following zones pursuant to the Zoning By-law: Z2, Z2A, Z3, Z4, Z4a and Z5;
- (y) “Side Lot Line” means a Lot Line other than a Front Lot Line and Rear Lot Line;
- (z) “Side Yard” means a Yard between the nearest main wall of the principal building or structure on a Lot and the Side Lot Line, extending from the Front Yard to the Rear Yard, and shall include an Exterior Side Yard;
- (aa) “Snow Fence” means a Fence used for the control of snow;
- (bb) “Township” means The Corporation of the Township of North Dumfries;
- (cc) “Yard” means a space open from the ground to the sky unoccupied except for accessory buildings and structures, on a Lot on which a principal building or structure is situated, and includes a Front Yard, Side Yard and Rear Yard; and
- (dd) “Zoning By-law” means a By-law 689-83, enacted by Council under section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13 and as may be duly amended or replaced.

3. Fence Height & Location

3.1. No person shall erect, or permit to be erected:

- (a) a Fence that exceeds 1.93 metres (6 feet, 4 inches) in Height in a Side Yard or Rear Yard on any Lot designed as a Residential Zone;
- (b) a Fence that exceeds 2.54 metres (8 feet, 4 inches) in Height in a Side Yard or Rear Yard on any Lot designed as an Agricultural Zone or Other Zone;
- (c) a Fence that exceeds 0.75 metres (2 feet, 5 inches) in Height in a Front Yard on any Lot;
- (d) a Fence that exceeds 0.75 metres (2 feet, 5 inches) in Height within 1.5 metres (5 feet) of an Exterior Side Lot Line;

- (e) a Fence that exceeds 0.8 metres (2 feet, 6 inches) in Height in a Driveway Daylight Triangle or in a Corner Daylight Triangle;
- (f) a Fence within 1.0 metre (3 feet 3 inches) of any fire hydrant; or,
- (g) a Fence on Township owned land.

3.2. The Township has no authority to resolve Lot Line disputes between neighbours and the owners shall not involve the Township in such disputes.

4. Fence Construction Material

4.1. No person shall erect, or permit to be erected:

- (a) a Fence that is wholly or partly constructed of barbed wire or other sharp material, unless erected as a Farm Fence in an Agricultural Zone and is used for the purpose of containing livestock;
- (b) an electrified Fence, unless erected as a Farm Fence in an Agricultural Zone and is used for the purpose of containing livestock; or,
- (c) a Snow Fence for use as a permanent Fence or for a purpose other than the controlling of snow.

4.2. All Owners shall ensure that Fences have a surface that is painted, stained, varnished or otherwise protected against deterioration with a similar protective finish, unless the material itself possess characteristics that offer protection against deterioration, such as cedar, plastic or chain link galvanized metal.

4.3. Hedges, trees, shrubs or other vegetation shall not be classified as a Fence, or form part of a Fence, for the purposes of this By-law.

4.4. No person shall use sheet metal panels, scrap metal, tarp, fabrics or other like materials, used solely or in combination, for the construction or maintenance of a Fence.

5. General Provisions

5.1. No person shall construct or maintain a Fence on Township property.

5.2. No person shall construct or maintain a Farm Fence except in an Agricultural Zone or an open space Zone, as defined by the Zoning By-law.

5.3. No person shall construct or maintain a Snow Fence except for the temporary purpose of controlling snow on a Lot.

5.4. The Owner shall maintain a Fence located on their Lot in accordance with section 8 of Township Property Standards By-law No. 2392-09 as may be duly amended or replaced.

- 5.5.** Notwithstanding the provisions of this By-law, and subject to section 5.6 below, any Fence that is in existence prior to the date of the enactment of this By-law and in compliance with other applicable regulations including Township By-laws, the proof of which shall lie with the Owner, shall be deemed to comply with this By-law and may be maintained with the same material, height and dimensions as previously existed including any repair work that may be done to such Fence.
- 5.6.** Where a Fence referenced in section 5.5 above is removed for any reason, any new construction of a Fence shall be in conformity with this By-law.
- 5.7.** This By-law shall not apply to a Fence erected for the purpose of public safety by:
- (a) the Township, or a local board thereof;
 - (b) a public utility, including but not limited to Bell Canada, Rogers Communications, Union Gas, Cambridge & North Dumfries Hydro;
 - (c) a Board of Education;
 - (d) the Regional Municipality of Waterloo; or,
 - (e) the Crown.
- 5.8.** This By-law shall not apply to a Fence erected pursuant to:
- (a) section 12 of Township Building By-law No. 2122-05; or,
 - (b) the Township Pool Fence By-law No. 1620-96.

6. Minor Variances

- 6.1.** Any person may apply to the Committee of Adjustments for a minor variance from the provisions of this By-law in respect to the height and construction materials of the Fence.
- 6.2.** The Committee of Adjustment is hereby appointed to consider applications for minor variances from the provisions of this By-law.
- 6.3.** All completed applications for minor variance shall be submitted to the Chief Building Official in the prescribed form, along with the applicable fees as outlined in the Township's Fees and Charges By-law.
- 6.4.** The Committee of Adjustment may refuse or grant a minor variance, either absolutely or subject to certain conditions.
- 6.5.** The Committee of Adjustments may only grant a minor variance where, in their opinion, the general intent and purpose of this By-law is maintained.

6.6. The Committee of Adjustment shall follow its established procedures including provisions for notice and public meetings when hearing an application for a minor variance, with necessary modifications.

6.7. Any decision of the Committee of Adjustment is final and binding.

7. Inspection

7.1. A Municipal Law Enforcement Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) this By-law;
- (b) an order of the Township issued under this By-law;
- (c) a condition of a minor variance granted under this By-law; or,
- (d) an order made under section 431 of the *Municipal Act, 2001*.

7.2. For the purposes of an inspection, the Municipal Law Enforcement Officer may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and,
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

7.3. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.

8. Order to Discontinue Activity

8.1. Where a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Municipal Law Enforcement Officer may make an order requiring the person who contravened this By-law, or who permitted or caused the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity

8.2. An order under section 8.1 shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
- (b) the date by which there must be compliance with the order.

8.3. Any person who contravenes an order under section 8.1 above is guilty of an offence.

9. Work Order

9.1. Where a Municipal Law Enforcement Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Municipal Law Enforcement Officer may make an order requiring the person who contravened this By-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.

9.2. An order under section 9.1 above shall set out,

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
- (b) the work to be done and the date by which the work must be done.

9.3. Any person who contravenes an order under section 9.1 above is guilty of an offence.

10. Remedial Order

10.1. If a person is ordered to do work under this By-law and that person defaults in complying with that order, the Township may enter upon the land at any reasonable time and take steps to remediate the contravention, and any damages caused by the contravention, at the expense of the person directed or required to do the work by the order.

10.2. The Township may recover the costs of doing any remedial work from the person directed or required to do the work by action or by adding the costs to the tax roll of that person and collecting them in the same manner as property taxes, pursuant to section 446 of the *Municipal Act, 2001*.

10.3. The costs outlined in this section shall include interest calculated at a rate of fifteen per cent (15%) per annum, calculated for the period commencing on the first day the Township incurs the costs and ending on the day the costs, including the interest, are either paid in full or added to the tax roll.

11. Administration

- 11.1.** This By-law shall be administered by the Chief Building Official and enforced by Municipal Law Enforcement Officers.
- 11.2.** All orders and notices pursuant to this By-law shall be made in writing and shall be deemed effective:
- (a) on the date on which the notice is delivered to the person to whom it is addressed; or,
 - (b) on the fifth day after the notice has been sent by registered mail to the person's last known address.

12. Offence

- 12.1.** Every person who contravenes any of the provisions of this By-law is guilty of an offence and pursuant to section 429 of the *Municipal Act, 2001*, all contraventions of this By-law are designated as continuing offences.
- 12.2.** Every person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of Four Hundred and Fifty Dollars (\$450.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
- 12.3.** Every corporation who is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence.
- 12.4.** In addition to the fine amounts set out in sections 12.2 and 12.3 of this By-law, for each day or part of a day that an offence continues, the minimum fine shall be Four Hundred Dollars (\$400.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

13. Severability

- 13.1.** In the event any section or sections of this By-law or parts of it are found by a Court to be illegal or exceed the power of the Council to enact, such section, or sections, or parts thereof shall be deemed to be severable and all other sections, or parts of this By-law shall be deemed to be separate and independent and shall continue in full force.

14. Interpretation

- 14.1.** Where there is any discrepancy in units of measurements referenced in this By-law, the measurement expressed in metres shall prevail.

15. Coming into Force

15.1. This By-law shall come into force and effect on the final passing of this By-law

Enacted this 15th day September, 2014.

Mayor – Robert Deutschmann

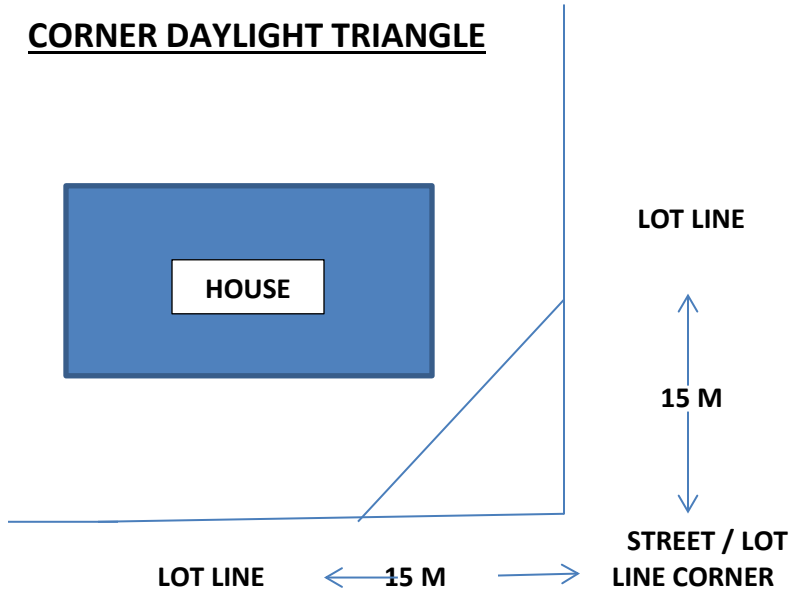
CAO-Clerk – Roger Mordue

THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES

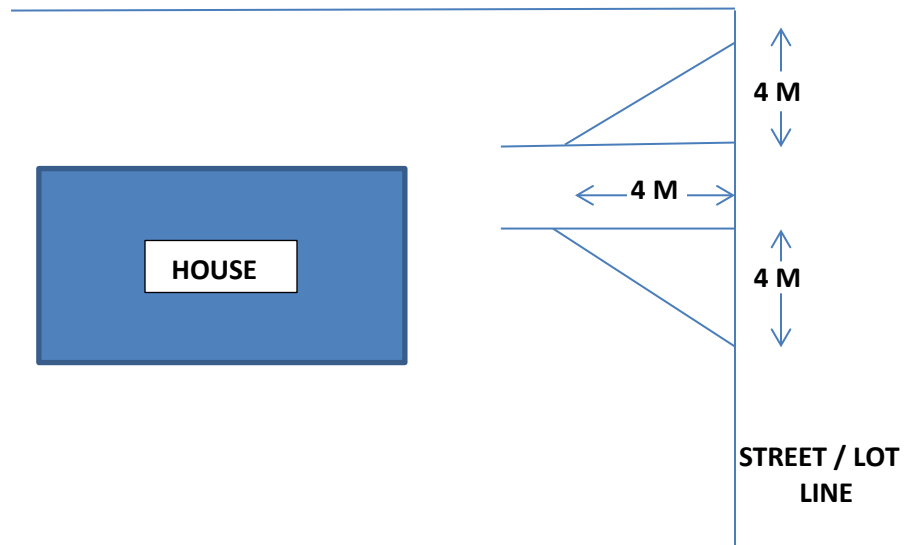
SCHEDULE 'A'

BY-LAW NUMBER 2644 - 2014

CORNER DAYLIGHT TRIANGLE



DRIVEWAY DAYLIGHT TRIANGLE



(NOT TO SCALE)