

The Corporation of the Town of Grand Valley

By-law 2017-45

Fence and Pool Enclosure By-law

A By-law prescribing the height and description of fences and pool enclosures within the Town of Grand Valley.

WHEREAS section 11(3)7 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipal Council to pass By-laws with respect to fences;

AND WHEREAS the Building Code Act, 1992 empowers a municipal Council to pass By-laws respecting building permits and the issuance thereof;

AND WHEHEREAS the Council deems it appropriate to provide for regulations for fences and pool enclosures in the Town of Grand Valley;

NOW THEREFORE the Council of the Corporation of the Town of Grand Valley enacts as follows:

1. DEFINITIONS

- a) "*Agricultural Line Fence*" means a fence capable of enclosing livestock in a zone where Agricultural uses are permitted.
- b) "Settlement Area" means the Settlement Area of Grand Valley and the Rural Settlements of Mount Haven Estates, Hamlets of Monticello and Hamlet of Colbeck.
- c) "Electric Fence" means a fence through which electricity passes.
- d) "Exterior Face", when used in conjunction with a pool enclosure, means the side of the enclosure from which access to the pool is to be prevented;
- e) "Fence" means any structure, except a structural part of a building, used to wholly or partially screen from view, enclose or divide a yard or other land, or mark or substantially mark the boundary between adjoining land, and includes any hedge, grouping of shrubs wall, line of posts, wire, board or pickets or similar substances used to enclose or divide in whole or in part a yard or other land, or to establish a property boundary.

- f) "Fence Viewers" mean persons appointed by the Council of the Town of Grand Valley under the Line Fences Act.
- g) "Height" means the vertical distance above grade.
- h) "Inspectors" means a person from time to time holding the office of Inspector under the Ontario Building Code Act, for the Corporation or for the Corporation of the County of Dufferin, and/or any appointed By-Law Enforcement Officer of the Corporation of the Town of Grand Valley.
- i) "Line Fence" means a fence marking the boundaries between privately owned parcels of land.
- j) "Owner" means the owner, tenant, lessee or other person in care and control of the property.
- k) "Privacy Screen" means a visual barrier used to shield any part of a yard from view from any adjacent parcel or highway.
- l) "Privately-owned outdoor swimming pool" means any privately-owned body of water located outdoors above or below finished grade on privately owned property, contained in part or in whole by artificial means in which the depth of water at any point can exceed 600 mm (24 inches). Not included in this definition is any swimming pool owned by a public or government body, agency or authority, any pond or natural body of water.
- m) "Swimming pool Area" means the swimming pool plus any surrounding platforms, walkways, play areas and landscaped areas within the swimming pool enclosure.
- n) "Swimming pool enclosure" means a fence, wall or other structure, doors, gates and other closures, surrounding an outdoor swimming pool
- o) "Swimming pool fence" means a fence forming part or all of a swimming pool enclosure that surrounds an outdoor swimming pool, and is made of wood, structural plastic, or wire or a similar material.
- p) "Road Fence" means a fence marking the boundaries between privately owned land and lands owned by the Corporation of the Town of Grand Valley, County of Dufferin and Highways for road purposes.

2. GENERAL PROVISIONS FOR FENCES

- 2.1 No *fence* shall be located closer than 2 m from a fire hydrant, except that a *fence* may be located no less than 1.0 m to the rear of a fire hydrant as viewed from the centre of a municipal road allowance; No *fence*, gate or *swimming pool enclosure* shall prevent access to any gas, electricity, water or other service meters.
- 2.2 No *fence* shall encroach onto municipally owned or public lands or daylight triangles being the area formed by measuring 4.5 m down the municipal right-of-way or a driveway and 4.5 meters down the side lot line abutting a right-of-way. No *fence* shall be erected in such a manner as to obstruct visibility to drivers or pedestrians entering, exiting, crossing or approaching a driveway, roadway, laneway or walkway;
- 2.3 No *fence* shall interfere with the natural drainage of the property on which it is erected or any adjacent property;
- 2.4 No *fence* shall be made of sheet metal or corrugated metal panels or include anything that is sharp or protruding such as barbed wire, except where explicitly permitted. No *fence* shall be electrified so as to provide electric shock to humans or animals, other than invisible pet fencing, or where explicitly permitted by this By-law.
- 2.5 Every *fence* shall have a surface that is painted, stained, varnished or protected with a similar protective finish, unless the material itself possess characteristics that offer protection against deterioration and shall be maintained.
- 2.6 Hedges or shrubs grown in a side or rear yard for the purpose of a *fence* may exceed any *height* restrictions contained within this by-law, but shall be maintained and pruned.
- 2.7 Where abutting landowner agree to the construction and maintenance of a *line fence*, each of the *owners* are to repair, replace or maintain a just proportion of any *line fence* heretofore or hereafter erected which marks the boundary of their respective properties, or are to bear a just proportion of the cost of any work or erection, repair, replacement or maintenance which has been carried out. For greater certainty, such agreement may be provided to the Town and may be registered on title. Where *owners* of adjoining land cannot agree on the *fence* to be erected between them, no contribution to the cost thereof is to be payable and the *fence* shall be located wholly on the land owned by the *owner* wanting to construct the *fence*.

3. AGRICULTURAL LINE FENCES

- 3.1 An *agricultural line fence* may be constructed of barbed wire, boards, chicken wire, electric wire, *electric fence*, woven wire, or any other material capable of enclosing livestock, but shall exclude the use of doors, skids, pallets and sheet metal.
- 3.2 An *agricultural line fence* may be constructed along any property line and within any yard to a maximum *height* of 2 m.

4. PROPERTY LINE FENCES IN THE SETTLEMENT AREA

- 4.1 A *property line fence* in the *settlement area* shall not exceed 2 m (6.56 feet) in *height* along any side, or rear property line and shall not be permitted in the front yard or exterior side yard, except where explicitly permitted by this By-law. No side-line fence shall be permitted to extend into the front or side yard beyond the rear wall of the dwelling.
- 4.2 A *fence* shall be permitted in an exterior side yard or in a yard that abuts a road that is not a front yard, where it has a maximum *height* of 1.83 m (6 feet) and is no closer than 3 m to the property line, no closer than 3m to the side walk, and no closer than 13m to the centrelne of the road.

5. PRIVACY SCREENS

- 5.1 A *fence* or *privacy screen* that meets the requirements of the Comprehensive Zoning By-law shall be considered a structure and may have a maximum *height* of 3m, and a maximum length of 9m, shall not be permitted in the front yard and in all other respects fall within the requirements for an accessory structure.

6. FENCES ON PREPERTIES WITH ZERO SIDE YARD (TOWNHOUSES, MULTIPLE RESIDNETIAL)

- 6.1 All fences or private screens shall be constructed to have a gate or break to allow access from the front yard to the rear yard, for the purposes of access for fire protection. Where a property is developed with a dwelling unit and has a zero side yard (such as a townhouse, row house, or multiple-dwelling unit), fences in the rear yard shall provide a minimum 2 metre break in the fencing within 6m of the rear wall of the dwelling unit for the purpose of allowing access to rear yards for emergency access. A temporary fence shall be permitted, in accordance with the following requirements:

- a) No posts or poles are constructed within the 2 metre break.

- b) The temporary fence shall be identified as a temporary fence either through exposed latch-and-hooks or through signage/markings on both sides of the fence.
- c) If the temporary fence is constructed of any material other than wire mesh or wire strand, it shall be positioned no less than 0.1m (10cm) above finished grade to prevent drainage problem or difficulty in removing the temporary fence in snow conditions.

7. FENCES IN DRAINAGE EASEMENTS

7.1 Where a drainage easement is along or traverses a property line or where fencing would prohibit access to the rear yard, a temporary fence may be permitted, subject to municipal approval and in accordance with the following minimum requirements:

- a) no posts or poles are constructed within the 2 metre break.
- b) the temporary fence shall be identified as a temporary fence either through exposed latch-and-hooks or through signage/markings on both sides of the fence.
- c) if the temporary fence is constructed of any material other than wire mesh or wire strand it shall not extend to the ground to the extent that it causes a drainage problem, and shall not limit the quantity of flow that the swale is designed to accommodate.
- d) any other requirement recommended by the Town's Engineer/Public Works or as required by an agreement.

8. SWIMMING POOL, HOT TUB, WHIRLPOOL, AND SPA ENCLOSURE REQUIREMENTS

8.1 For the purpose of this By-Law, above ground privately-owned swimming pools, whirlpools, spas and hot tubs are considered to be the same as in-ground privately-owned swimming pools, and require the same enclosure around the entire pool. However, hot tubs, whirlpools and spas provided that a secure cover of rigid material is placed over the opening and is locked to prevent access when the structure is not in use shall not be subject to this by-law.

8.2 The *Owner* of any lands on which a *privately-owned outdoor swimming pool* is located or erected or proposed to be located or erected shall erect and maintain in good order, a *swimming pool enclosure* around the entire

swimming pool area, which is of a type and nature designed to prohibit unauthorized entry. No person shall place water in or cause water in or cause water to be placed in a *privately-owned outdoor swimming pool* or allow water to remain therein unless the *swimming pool enclosure* prescribed by this by-law is erected and maintained.

- 8.3 Such adequate enclosure shall comply with the following:
- a) minimum *height* of 1.5 m (5 feet)
 - b) shall have a lockable gate(s) in accordance with subsection 8.4, which shall be locked at all times except when the swimming pool is being supervised by a responsible adult person.
 - c) where the enclosure utilizes a wall with doors or windows, such doors or windows shall be kept latched at all times except when the swimming pool is being supervised by a responsible adult person.
 - d) shall have no attachment that could facilitate climbing.
 - e) be located not less than 1.2 m (4 feet) from the nearest inside wetted surface of the swimming pool wall.
 - f) shall be located closer than 1.2 m (4 feet) to any condition that facilitates the climbing of the enclosure from the exterior side.
 - g) shall contain no barbed wire, *electric fence*, sharp projections or any other dangerous characteristics either on the outside or inside.
- 8.4 Gates shall comply with the following :
- a) minimum height of 1.5m (5 feet);
 - b) supported on substantial hinges;
 - c) self closing and equipped with a self latching device placed at the top and on the inside of the gate.
- 8.5 Above ground privately-owned swimming pools may have an integrally constructed *fence* as part of the required *swimming pool enclosure* provided:
- a) the exterior sides of the swimming pool is in excess of 1.5 m (5 feet) above grade and are constructed in a manner that will not facilitate climbing;

- b) a guard of not less than 1.0 m (3.3 feet) in *height* is provided around any platform or deck and is constructed in a manner that will not facilitate climbing, and that is sufficiently high and of a sufficient material that will provide visual screening for privacy on abutting residential properties;
- c) an integral platform or deck provided around an above ground swimming pool shall have a minimum width of 1.0 m (3.3 feet) measured from the inside wetted wall of the pool.

9. FENCE VARIANCE AND PERMITS

- 9.1 The Clerk shall place all requests for variances to the Fence and Pool Enclosure By-law before the Council of the Town of Grand Valley for consideration.
- 9.2 No person shall excavate, or cause or permit excavation or erection for any *fence* or privately owned swimming pool without first obtaining municipal approval. Further, a fence permit shall be obtained from the Town for any *fence* and a building permit shall be obtained from the County of Dufferin Building Department for any *swimming pool enclosure*.

10. EXEMPTIONS AND TRANSITION

- 10.1 This by-law shall not apply to *fences* erected by the Town of Grand Valley or the Provincial or Federal Governments on land owned by those entities.
- 10.2 Notwithstanding the provisions of this by-law, any *fence constructed with a permit and* that is in existence prior to the date of the enactment of this by-law and in compliance with other applicable regulations including Town of Grand Valley, the proof of which shall lie with the *owner* of a property, 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*.

11. OFFENCE, PENALTY AND NOTIFICATIONS

- 11.1 This By-Law shall be administered and enforced by the Chief Building Official for the Corporation of the County of Dufferin, and/or any appointed By-Law Enforcement Officer of the Corporation of the Town of Grand Valley.

- 11.2 Every person who contravenes and provision of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) for each offence committed.
- 11.3 Where anything required to be done in accordance with this by-law is not done, the Town or a person or persons designated by the Town may carry out such work or take such action, including removal of such *fence* in its entirety, and recover the costs of so doing by adding the costs to the tax roll for the property on which the work was done or the actions were taken and collecting them in the same manner and with the same priority as municipal taxes.
- 11.4 An Inspector or any assistant shall have the right to visit, enter and inspect from time to time and at all reasonable times, any *fence* or *privately-owned outdoor swimming pool*, for the purpose of enforcing the provisions of this by-law.
- 11.5 Any section or subsection of this by-law or any part or part thereof found to be illegal or beyond the power of Council to enact such section or subsection or part or parts thereof, shall be deemed to be severable so that all other sections, subsections or part or parts thereof this by-law are separate and therefore enacted as such.

SHORT TITLE

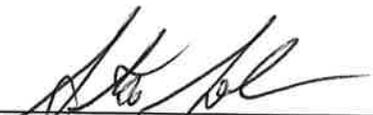
This By-law may be cited as the "Fence and Pool Enclosure By-law".

ENACTMENT

This By-law comes into full force and effect on the date it is enacted.

All other by-laws or parts of by-laws inconsistent with this by-law are hereby repealed.

Enacted this 26th day of September, 2017.



Steve Soloman, Mayor



Jane M. Wilson, CAO/Clerk-Treasurer

SKETCH PROVIDED FOR ILLUSTRATION PURPOSES ONLY, AND DOES NOT FORM PART OF THE BY-LAW.

