

The Corporation of the Town of Grand Valley

By-law 2020-31

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 section 429 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to establish a system of fines for offences under a by-law of the municipality;

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

AND WHEREAS 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

- 1.1. "Agricultural Line Fence" means a fence marking the boundaries between privately-owned parcels of land, which is capable of enclosing livestock in a zone where Agricultural uses are permitted.
- 1.2. "Builder-built Covered Decks" means a deck structure with a roof that is attached to a dwelling that was built onto the dwelling during initial construction by the subdivision developer.
- 1.3. "Drainage Easement" means a right or interest annexed by the Town to land for the purposes of allowing for the improving of a natural watercourse, and includes works constructed by any means to regulate the water table or water level within or on any lands or to regulate the level of the waters of a drain, reservoir, lake or pond, and includes a dam, embankment, wall, protective works or any combination thereof, and the easement permits the Town to impose restrictions on the owner of the land. Such easements run with the land. Drainage easements do not include swales constructed on private lands over which an easement has not been placed.
- 1.4. "Electric Fence" means a fence through which electricity passes.

- 1.5. "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;
- 1.6. "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, that is used to enclose or divide in whole or in part a yard or other land, or to establish a property boundary.
- 1.7. "Fence Viewers" mean persons appointed by the Council of the Town of Grand Valley under the *Line Fences Act*.
- 1.8. "Height" means the vertical distance above grade.
- 1.9. "Inspectors" means a person from time to time holding the office of Inspector under the *Building Code Act* for the Corporation of the Town of Grand Valley, and/or any appointed By-Law Enforcement Officer of the Corporation of the Town of Grand Valley.
- 1.10. "Line Fence" means a fence marking the boundaries between privately owned parcels of land, other than an Agricultural Line Fence.
- 1.11. "Open Space Fence" means a line fence installed as part of a condition of site plan approval or subdivision agreement, usually separating private and publicly-owned lands.
- 1.12. "Owner" means the owner, tenant, lessee or other person in care and control of the property.
- 1.13. "Privacy Screen" means a visual barrier used to shield any part of a yard from view from any adjacent parcel or highway.
- 1.14. "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. 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. Included in this definition are in-ground privately-owned swimming pools, above-ground privately-owned swimming pools and outdoor whirlpools, spas and hot tubs.
- 1.15. "Road Fence" means a fence marking the boundaries between privately owned land and lands owned by the Corporation of the Town of Grand Valley, the Corporation of the County of Dufferin, and/or Provincial Highways for road purposes.
- 1.16. "Settlement Area" means the Settlement Area of Grand Valley, the Rural Settlement of Mount Haven Estates, the Hamlet of Monticello, and the Hamlet of Colbeck.
- 1.17. "Sight Triangles" means the area of unobstructed sight distance at two or more intersecting highways, including approach and departure sight triangles, or where a driveway meets a highway. In accordance with provincial guidelines, Sight Triangle size varies depending on various factors including highway speed and the types of regulatory controls in place at the intersection.

Driveway Sight Triangles are formed by measuring 4.5m up the driveway and 4.5m down the lot line abutting a right-of-way.

- 1.18. "Swimming Pool Area" means the swimming pool plus any surrounding platforms, walkways, play areas and landscaped areas within the swimming pool enclosure.
- 1.19. "Swimming Pool Enclosure" means a fence, wall or other structure, doors, gates and other closures, surrounding an outdoor swimming pool and swimming pool area.
- 1.20. "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.

2. GENERAL PROVISIONS FOR FENCES

- 2.1. No *fence* shall be located closer than 2.0 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.
- 2.2. No *fence*, gate or *swimming pool enclosure* shall prevent access to any gas, electricity, water or other service meters.
- 2.3. No *fence* shall encroach onto municipally owned or public lands or applicable *sight triangles*. 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.
- 2.4. No *fence* shall interfere with the natural drainage of the property on which it is erected or any adjacent property.
- 2.5. No *fence* shall be made of sheet metal or corrugated metal panels. No *line fence* shall include anything that is sharp or protruding such as barbed wire. No *line fence* shall be electrified that would provide electric shock to humans or animals, other than low voltage invisible pet fencing.
- 2.6. 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.
- 2.7. 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 such hedge shall be maintained and pruned and shall not impede on any set backs required under this or any other by-law or provision registered on title.
- 2.8. 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.
- 2.9. No *fence* shall be constructed where such construction is prohibited under another by-law, agreement or provision registered on title.
- 2.10. No person shall alter public park and open space fences, nor install, or caused to be installed, a private gate in park and open space fences.

3. APPORTIONMENT OF COSTS

3.1. Where abutting landowners 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*.

4. AGRICULTURAL LINE FENCES

- 4.1. 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.
- 4.2. An *agricultural line fence* may be constructed along any property line and within any yard to a maximum *height* of 2 m.
- 4.3. Permits are not required for *agricultural line fences*; however, such fences shall be constructed in compliance with this and any other applicable by-law.

5. LINE FENCES IN THE SETTLEMENT AREA

- 5.1. A *line fence* in the *settlement area* shall not exceed 2m 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 interior or exterior side yard *line fence* shall be permitted to extend into the front or side yard more than 2m beyond the rear wall of the dwelling sidewall.
- 5.2. 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 2m and is constructed out of chain link or other open construction materials, behind the property line, entirely on private property. If a fire hydrant is present, then subsection 2.1 also applies.
- 5.3. A *line fence* shall not enclose a dwelling sidewall window well.

6. PRIVACY SCREENS AND BUILDER-BUILT COVERED DECKS

- 6.1. A *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.
- 6.2. A *line fence* may be constructed to enclose a *builder-built covered deck* within the fenced in area of the rear yard of a property.

7. FENCES ON PROPERTIES WITH ZERO SIDE YARD (TOWNHOUSES, MULTIPLE RESIDENTIAL)

- 7.1. 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), *line fences* in the rear yard shall provide a minimum 2m 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.
- 7.2. A temporary fence may be permitted in this 2m break, subject to permit approval, in accordance with the following requirements:
 - 7.2.1. No posts or poles are constructed within the 2m break.
 - 7.2.2. 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.
 - 7.2.3. If the temporary fence is constructed of any material other than wire mesh or wire strand, it shall be positioned no less than 0.10m above finished grade to prevent drainage problems or difficulty in removing the temporary fence in snow conditions.

8. FENCES IN DRAINAGE EASEMENTS

- 8.1. ~~Where a *drainage easement* exists along or traverses a property line or where fencing would prohibit access to the rear yard, (By-law 2020-38)~~ Where a *drainage easement* exists along or traverses a property line or where fencing across the *drainage easement* would prohibit direct access to the easement from publicly-owned lands, and to reduce the need for Town officials to cross private property to access the easement, a temporary *fence* may be permitted, subject to permit approval and in accordance with the following minimum requirements:
 - 8.1.1. No posts or poles are constructed within the 2m break forming the *drainage easement*.
 - 8.1.2. 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.
 - 8.1.3. 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 such *fence* shall not limit the quantity of flow that the *drainage easement* is designed to accommodate.
 - 8.1.4. Any other requirement recommended by the Town's Engineer/Public Works or as required by an agreement shall be implemented.

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

- 9.1. The *Owner* of any land 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 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, approved and maintained.

9.2. Such adequate enclosure shall:

- 9.2.1. Have a minimum *height* of 1.5 m (5 feet).
- 9.2.2. Have a lockable gate(s) in accordance with subsection 9.5, which shall be locked at all times except when the swimming pool is being supervised by a responsible adult person.
- 9.2.3. At all times, keep latched any doors or windows within a wall that forms part of the enclosure, except when the swimming pool is being supervised by a responsible adult person.
- 9.2.4. Have no attachment that could facilitate climbing.
- 9.2.5. Be located not less than 1.2 m from the nearest inside wetted surface of the swimming pool wall.
- 9.2.6. Be located not closer than 1.2 m to any condition that facilitates the climbing of the enclosure from the exterior side.
- 9.2.7. shall contain no barbed wire, *electric fence*, sharp projections or any other dangerous characteristics either on the outside or inside.

9.3. Gates in *swimming pool enclosures* shall:

- 9.3.1. Have a minimum height of 1.5m.
- 9.3.2. Be supported on substantial hinges.
- 9.3.3. Be self closing and equipped with a self latching device placed at the top and on the inside of the gate.

9.4. Hot tubs, whirlpools and spas with a secure cover of rigid material shall not be subject to this by-law if such cover is placed over the opening and is locked to prevent access when the structure is not in use.

9.5. Above ground privately-owned swimming pools shall have an integrally constructed *fence* as part of the required *swimming pool enclosure*, provided that:

- 9.5.1. The exterior sides of the swimming pool exceed 1.5m above grade and are constructed in a manner that will not facilitate climbing,
- 9.5.2. A guard of not less than 1.0m 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,
- 9.5.3. ~~An integral platform or deck is provided around an above-ground swimming pool with~~ (By-law 2021-34) An integral platform or deck provided around an above-ground swimming pool shall have a minimum width of 1.2m measured from the inside wetted wall of the pool, and
- 9.5.4. The *owner* installs either steps that swing up to close the top guard with a locking device to secure the steps in a stationary position to serve as a

gate, or stairs with a protective guard acting as a gate in accordance with subsections 9.3.2, 9.3.3 and 9.5.2. The distance between the lowest point of either type of gate and the deck shall not exceed 100mm.

10. FENCE VARIANCE AND PERMITS

- 10.1. No person shall excavate, or cause or permit the excavation or erection of any *fence* or privately owned swimming pool without first obtaining a municipal fence permit. *Owners* shall submit a fence permit application and receive a completed fence permit from the Town Public Works Superintendent for any *line fence*. A building permit shall be obtained from the County of Dufferin Building Department for any *swimming pool enclosure*. Such permits must be either completed by or authorized by the person or entity registered as the legal owner of the land.
- 10.2. Permits shall not be issued to *owners* of property where a final grading certificate has not been issued by the Town's engineers.
- 10.3. If an *owner* wishes to construct a *fence* in a manner contrary to the terms of this By-law, they shall submit a Fence Variance request to the Town Public Works Superintendent for consideration, who shall then place all requests for variances to the Fence and Pool Enclosure By-law before the Council of the Town of Grand Valley for consideration.
- 10.4. All Permit Applications and Fence Variance requests shall be subject to such fees and deposits established and amended by the Town.
- 10.5. Permits and Variances shall not be issued in contravention of any by-laws or regulations or any provisions registered on title.

11. EXEMPTIONS AND TRANSITION

- 11.1. 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.
- 11.2. Notwithstanding the provisions of this by-law, any fence constructed with a permit and that is in existence prior to September 26, 2017 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*. If such *fence* is substantially replaced or added to, such replacement or addition shall be performed in compliance with this by-law.

12. OFFENCE, PENALTY AND NOTIFICATIONS

- 12.1. This By-Law shall be administered by the Public Works Superintendent and enforced by the Chief Building Official for the Corporation of the County of Dufferin as it pertains to *swimming pool enclosures*, and/or any appointed By-Law Enforcement Officer of the Corporation of the Town of Grand Valley for all matters under this by-law.

- 12.2. Every person who contravenes any 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.
- 12.3. 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.
- 12.4. An Enforcement Officer, with or without accompaniment by 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.
- 12.5. 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.

13. SHORT TITLE

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

14. ENACTMENT

- 14.1. This By-law comes into full force and effect on the date it is enacted.
- 14.2. Terms and Provisions in the Town of Grand Valley's Comprehensive Zoning By-law, as amended, shall continue to apply to all *fences* constructed under this By-law.
- 14.3. By-law 2017-45 and all other by-laws or parts of by-laws inconsistent with this by-law are hereby repealed.

Enacted this 11th day of August 2020.

Original signed by

Steve Soloman, Mayor

Original signed by

Meghan Townsend, CAO/Clerk-Treasurer