

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW 2017 – 40

A By-law for prescribing the height and description of fences within the Township of Essa; and to repeal By-law 2013-32.

WHEREAS it is considered desirable that where fences are constructed, such fences should be regulated with respect to height and description in order to maintain the amenities of the area and the free movement of light and air; and

WHEREAS it is deemed responsible and necessary to establish fencing restrictions to regulate fences for purposes related to the health, safety and well-being of the inhabitants of the Municipality; and

WHEREAS the Council of the Corporation of the Township of Essa has, pursuant to the Municipal Act, R.S.O. 2001, authority to enact this By-law.

NOW THEREFORE the Council of the Corporation of the Township of Essa enacts as follows:

SECTION 1 – DEFINITIONS

In this By-law unless the context otherwise requires,

1.1 Daylighting Triangle

“**Daylighting Triangle**” means an area to be kept free of buildings or structures excepting landscaping, which area is to be determined by measuring, from the point of intersection of property lines on a corner lot, along each property line and joining such end points with a straight line to form a triangle. The triangular-shaped area between the intersecting property lines and the straight line joining the end points is the “Daylighting Triangle”.

1.2 Corner Lot

“**Corner Lot**” means a lot situated at the intersection of and abutting on two or more streets provided that the angle of intersection of such streets is not more than 135 degrees.

1.3 Fence

“**Fence**” means a barrier erected or grown dividing two or more properties or which marks or substantially marks the boundary. In the case of an outdoor swimming pool, a fence may include buildings or structures but shall NOT include shrubs or hedges.

1.4 Front Yard

“**Front Yard**” means a yard extending across the full width of a lot between the front lot line and the nearest wall of the principle building or structure on the lot.

1.5 Height

“Height” means the vertical distance measured between the ground level and the highest point of the fence. Where the ground levels are not the same on both sides of the fence, the higher of such levels shall be considered the ground level for purposes of the height. In the case of a fence located on top of a retaining wall or wall of an above-ground pool, height means the combined vertical distance between the lowest point of the retaining wall or swimming pool and the highest point of the fence.

1.6 Lot

“Lot” means all contiguous land under one ownership.

1.7 Exterior Lot Line

“Exterior Lot Line” means the longer of the lot lines of a corner lot which abut a street.

1.8 Municipality

“Municipality” means the Corporation of the Township of Essa.

1.9 Open/Closed Construction

“Open Construction” means that there exists a space or open area between fence components to allow for visibility of objects on the other side. This includes the open areas of chain link fences and horizontal/vertical spaces in wooden fences provided the open spaces are: a minimum of 3.8 centimetres (1 ½ inches) gauge for chain link fencing or 10 centimetres (4 inches) for wooden construction fencing. This may also include wrought-iron or cedar rail fences.

“Closed Construction” means solid brick, solid concrete, continuous steel panels, translucent panels, or abutting wooden boards forming “privacy” fencing.

1.10 Pool

“Pool” means a private outdoor swimming pool, either above-ground or inground, contained by artificial means in which the depth of water at any point can exceed 0.45 metres (18 inches) but NOT to include hot tubs or landscaping ponds.

SECTION 2 – GENERAL PROVISIONS

2.1 Scope

The provisions of this By-law apply to all lands within the Township of Essa.

2.2 Conditions for Construction of Fences

No person shall construct a fence within the Township except in accordance with the specifications and applications on which permission was granted as authorized by the Township.

2.3 Obstructions of Streets

No person shall place or maintain a fence or other barrier either permanently, or temporarily on any street except in association with Public Works operations or for emergency protection measures with the approval of the appropriate staff member or designate of the Municipality.

2.4 Shrubs and Hedges

Hedges and shrubs used as fences shall be maintained at a height not in excess of the heights specified for fences.

2.5 Privately Owned Outdoor Swimming Pools

Notwithstanding any other provision of this By-law, all owners of privately owned inground or above-ground pools shall erect and maintain fences and gates around such swimming pools to the following specifications:

- a) The minimum height of a fence shall be 1.2 metres (4 feet) unless an above-ground pool has rigid sides, without a deck, that are 1.2 metres (4 feet) above finished grade in which case then the sides can be considered as the barrier to restrict access provided the access ladder is removable and stored in a secure location when not in use or the access ladder has a roll-up type cover that is lockable ;
- b) The fence must completely enclose a pool on all sides with an entrance gate which shall be provided with a self closing device and a secure lock or latch to be out of reach of small children;
- c) Fences are to be constructed of approved, suitable materials acceptable to the Municipality and may include solid wooden construction, panels or panel pieces that securely affix to the top of an above-ground pool, or, properly erected chain link, wrought iron, wooden or other fencing, none of which can be climbed or whereby vertical components are spaced greater than 4 inches apart, to the satisfaction of the Municipality. Chain link fencing must consist of wire of a size not less than 12 gauge galvanized or plastic coated with links of an opening of not more than 38 millimetres (1.5 inches); and
- d) The fencing around a lot may be utilized if such fence meets the height and material requirements above.

2.6 Fence on Boundary of Different Zones

Where a lot line follows a Zone boundary in accordance with the Zoning By-law of the Municipality, a fence may be erected to the specification of the Zone with the highest height restrictions.

2.7 Setbacks

All setbacks for fences shall be measured from an owner's property lines.

2.8 Township Property

No person shall erect a fence which contains a gate structure that abuts Township property without the prior approval of the Township.

2.9 Public Uses

The provisions of this By-law shall not apply to fences constructed for the purpose of public service by the Corporation of the Township of Essa, and/or any Public authority, any department of the County of Simcoe, and department or ministry of the Government of Ontario or of Canada including Ontario Hydro or any telephone, communication or gas company, this includes fencing surrounding stormwater management ponds.

SECTION 3 – RESTRICTIONS IN ALL RESIDENTIAL ZONES

In all Residential Zones of the Municipality the following provisions shall apply.

- 3.1 No person shall use or allow the use of barbed wire or other barbed material or any material of a nature which could be injurious to the public, including devices projecting electric current through a fence.
- 3.2 No person shall construct a fence from temporary fencing, chicken wire, farm wire, or ungraded, used material.
- 3.3 Any fence constructed shall be compatible to the area and finished in such a manner as to be aesthetically pleasing so as not to offend, to the satisfaction of the Municipality. This would include conventional, privacy or acoustic, fencing found for sale at building supply retailers wherein vertical planks 25 millimetres (1 inch) thick are attached to a top and bottom rail.
- 3.4 A fence having a maximum height of 2 metres (6.6 feet) may be erected along the rear and side lot lines except in the front yard on a property. Fencing within a front yard must be less than 1.2 metres (4 feet) and of open construction.
- 3.5 Corner lots shall provide a daylighting triangle of not less than 4.5 metres (15 feet) in the case of local roads intersecting and 7.5 metres (25 feet) where one or more collectors, County or Provincial road(s) would abut the lands where a fence is to be constructed.

SECTION 4 – RESTRICTIONS IN ALL COMMERCIAL ZONES

In all Commercial Zones of the Municipality, the following provisions shall apply.

- 4.1 A fence having a maximum height of 1.8 metres (6 feet) may be erected along the rear and side lot lines to the front wall of the principle building or structure on a lot.
- 4.2 Fencing within a front yard must be less than 1.2 metres (4 feet) and of open construction.
- 4.3 Corner lots shall provide a daylighting triangle of not less than 4.5 metres (15 feet) in the case of local roads intersecting and 7.5 metres (25 feet) where one or more collectors, County or Provincial road(s) would abut the lands where a fence is to be constructed.

- 4.4 Council has the authority to approve an alternative form or height of fencing as shown on a commercial site plan drawing.

SECTION 5 – RESTRICTIONS IN INDUSTRIAL ZONES

In all Industrial Zones of the Municipality, the following provisions shall apply.

- 5.1 Surrounding an aggregate operation, a fence of heavy duty farm fencing with a minimum height of 1.5 metres (5 feet) and maximum height of 2.4 metres (8 feet) shall be erected and maintained or as provided in a licence issued pursuant to the Mineral Aggregates Act. Such fence shall follow the contours of the surface of the ground along the perimeter of the lot or area of the lot to be used for a pit operation.
- 5.2 Where land is used for the purpose of a salvage yard or automobile wrecking yard, the use shall be surrounded on all sides by a fence that is a minimum height of 1.8 metres (6 feet) and a maximum height of 2.4 metres (8 feet) unless otherwise is approved on a site plan by Council for the Municipality.
- 5.3 Corner lots shall provide a daylighting triangle of not less than 4.5 metres (15 feet) in the case of local roads intersecting and 7.5 metres (25 feet) where one or more collectors, County or Provincial road(s) would abut the lands where a fence is to be constructed.
- 5.4 For all other industrial uses, Council has the discretion of approving an alternate form or height of fencing as shown on the relevant site plan.

SECTION 6 – RESTRICTIONS IN AGRICULTURAL OR RURAL ZONES

- 6.1 Fencing for farm use is permitted and NOT subject to the terms and fees of this By-law. This includes a fence erected for the purpose of containing livestock, enclosing crops, water areas, woodlots, buildings, fields or laneways for the agricultural operations.
- 6.2 Fencing of all other non-farm uses including surrounding a pool and/or a residential dwelling unit shall comply to the General Provisions or Residential Restrictions as established in Sections 2 or 3 of this By-law.

SECTION 7 – SPECIAL PROVISIONS – RECREATIONAL FACILITIES

Notwithstanding the provisions of this By-law, chain link or other fences for recreation and related facilities shall be permitted provided, subject to the approval of Council of the Municipality.

SECTION 8 – OFFENCES AND PENALTIES

- 8.1 Every fence that is erected in breach of the provisions of this By-law shall be removed and/or made to conform to the provisions of the By-law within 5 days of receiving written notice of non-conformity from the Municipality.
- 8.2 In addition to any other party who commits the offence, the owner, lessee or any occupant of any property on which a fence is constructed other than in accordance with the provisions of this By-law shall be deemed to commit the offence.

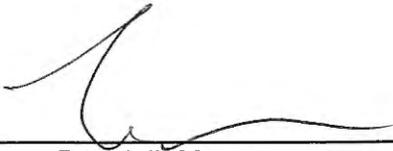
- 8.3 Any person convicted of a breach of the provisions of this By-law shall forfeit and pay, at the discretion of the Convicting Judge or Justice, a penalty not exceeding (exclusive of cost) the sum of \$5,000.00 for each such offence.
- 8.4 In this By-law, where any person is directed to do any matter or thing in default of its being done by the person directed to do it, such matter or thing may be done by the Municipality and such expense may be recovered by action or in like manner as Municipal taxes.

SECTION 9 – APPROVAL OF BY-LAW

9.1 By-law 2013-32 is hereby repealed.

9.2 This By-law shall come into force and take effect upon the day it is finally passed.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this the 5th day of July, 2017.



Terry Dowdall, Mayor



Bonnie Sander, Clerk