

# THE CORPORATION OF THE TOWN OF SMITHS FALLS

## BY-LAW NO. 7163-96

A By-law to regulate the erection, height and maintenance of fences.

WHEREAS pursuant to Sections 210(25), (26) and (28) of the Municipal Act, Chapter M.45, R.S.O. 1990 by-laws may be passed by the councils of local municipalities for regulating the erection, height and maintenance of fences.

NOW THEREFORE the Council of the Corporation of the Town of Smiths Falls enacts as follows:

### 1.0 TITLE

- 1.1 This by-law may be cited as the "Fence By-law".

### 2.0 DEFINITIONS

- 2.1 For the purposes of this by-law the following definitions are included to provide a general understanding of the interpretation of certain words. Reference shall be made to the Town of Smiths Falls Zoning By-law for specific definitions which shall apply to the provisions of this by-law.

**FENCE** means any barrier or structure other than a building erected at the grade, which is erected or planted for the purpose of screening, safeguarding, enclosing property or delineating property lines.

**FRONT WALL** means that wall of a building which is customarily referred to as the front of the building where the main access to the building is located. Where such wall has irregular projections therein, front wall shall mean the most projecting portion of the wall.

**GATE** means any swinging or sliding barrier used to fill or close an access in a fence.

**GRADE** means the elevation of the finished ground or surfaces adjoining the fence.

**LOT** means contiguous land owned by an individual(s), association, firm, partnership or incorporated company.

**CORNER LOT** means a lot other than inside lot and may have frontage on two or more streets.

**INSIDE LOT** means a lot situated between adjacent lots which has frontage on a street.

**LOT FRONTAGE** means the line that divides the lot from the street

**MAIN BUILDING** means a building in which is conducted the principal uses of the lot on which it is located.

**REAR LOT LINE** means the lot line opposite the front lot line.

**SIDE LOT LINE** means a lot line other than a front lot line or rear lot line.

**SITE TRIANGLE** means the triangular space formed by intersecting street lines and a line drawn from a point in one street to a point on the other street line each such point being 6 m from the point of intersection.

**TOWN** means the Corporation of the Town of Smiths Falls.

YARD means any open uncovered, unoccupied space appurtenant to a building.

FRONT YARD means the yard extending across the full width of the lot between the front lot line and the front wall of the main building.

REAR YARD means the yard extending across the full width of the lot between the rear lot line and the main building.

SIDE YARD means the yard extending from the front yard to the rear yard between the side lot line and the main building.

### 3.0 OFFENCES

- 3.1 No person shall erect or maintain a fence on a property within the limits of the Town of Smiths Falls, save and except in compliance with the provisions of this by-law.
- 3.2 The owner of a property on which a privately owned outdoor pool is located shall, in addition to complying with the provisions of this by-law, comply with the provisions of the Town's "Pool Enclosure By-law".

### 4.0 GENERAL

- 4.1 All fences shall be located entirely within the owner's property lines and all hedges shall be planted a minimum of 0.61m within the owner's property line to allow for growth.
- 4.2 Notwithstanding section 4.1, a fence or hedge may be located on the property <sup>line</sup> if a written agreement between the owner and adjacent owner respecting location and maintenance of the fence has been registered on title for both lots.
- 4.3 All fences and gates shall be stable, structurally sound, vertical and shall be made of materials of good quality and suitable for the purpose, arranged and supported in an orderly manner commensurate with the design of the entire fence.
- 4.4 All fences shall be constructed in such a manner so as to ensure the bracing and posts face to the inside of the owner's property with the good or finished side facing outward.
- 4.5 Workmanship and maintenance of all fences and gates shall be such that no defects are visible from any street or adjoining property.
- i) Any defacement on the exterior surface of a fence shall be removed by the owner and the fence refinished when necessary.
  - ii) No fence shall be permitted that obstructs maintenance of adjacent structures.
  - iii) All fences requiring maintenance shall be constructed to facilitate such maintenance. Where access is obstructed, the fence shall be constructed with moveable sections.
- 4.6 No fence shall be constructed to include material which will, does or may adversely affect the safety of the public.

- 4.7 No fence shall be permitted that, in the opinion of the Chief Building Official, constitutes an obstruction of view at street intersections, pedestrian pathways, driveways or other points of access or egress of vehicular or pedestrian traffic. Specifically no person shall construct any fence or other obstruction in a site triangle which exceeds 0.8m in height above the centre line of the street.
- 4.8 No fence shall encroach upon Town owned land or road allowance nor any other public lands or easements without the express written permission of the owner of such land and the person or agency to which the easement was granted.
- 4.9 Notwithstanding any other height restriction for fences in this by-law, where it is necessary for the safety of the public in respect to such uses as high voltage substations, storage of explosive material and similar materials or other situations of hazardous nature; a fence may be permitted, and shall be erected to whatever height is deemed necessary by the Chief Building Official to ensure such safety.
- 4.10 Save and except where otherwise provided in this by-law, the height of a fence shall be measured from grade to the top of the fence. In the event of a difference of grade between two sides of the fence, the height of the fence shall be measured from the higher grade to the top of the fence.
- 4.11 No electric current intended to give electric shock shall be used as part of, or in conjunction with any fence.
- 4.12 The provisions of section 4.11 shall not apply with respect to any fence erected on lands used and designated under the Zoning By-law for the keeping and pasturing of livestock.

## 5.0 RESIDENTIAL PROPERTY

- 5.1 Subject to the exceptions set out in Sections 5.2 to 5.4 below, a fence erected on a residential property shall have a maximum height of:
- i) 2.0m (6.56 ft) in a rear yard or side yard;
  - ii) 1.0m (3.28 ft) in a front yard.
- 5.2 Notwithstanding Section 5.1, on a corner lot, a fence may have a maximum height of 2.0m (6.56ft) in any required front yard which is between the front lot line and the line projecting in a straight line along the front wall of the main building to an intersection point with any lot line(s).
- 5.3 Notwithstanding section 5.1, where the front yard of an inside lot is different to the front yard of adjoining lots, a fence of a maximum height of 2.0m (6.56ft) may be erected on and extended along the lot line between such lots, to the minimum point of the lesser front yard of the two adjoining lots.
- 5.4 Notwithstanding Section 5.1, where the residential property abuts a non-residential property, the portion of the fence immediately contiguous to the non-residential property shall not exceed a height of 2.5m (8.20ft).
- 5.5 No barbed wire shall be permitted on a fence located on residential property.

## 6.0 NON-RESIDENTIAL PROPERTY

- 6.1 Subject to section 6.3 below, a fence erected on a non-residential property shall have a maximum height of 2.5m (8.20ft) in a rear yard or side yard.
- 6.2 Subject to Section 6.3 below, a fence erected on non-residential property shall not be permitted in a front yard.

6.3 Nothing in sections 6.1 or 6.2 shall affect the ability of Council of the Town to regulate or modify the height of any fence under an application for approval under Section 41 of the Planning Act, R.S.O. 1990, as amended.

6.4 Barbed wire may be used on a fence erected on non-residential property if located no less than 2.0m (6.56ft) in height above the adjacent finished grade and if the barbed wire is used only on the top of the fence and entirely inside the fence, on the owner's property.

## 7.0 PENALTIES

7.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction shall be liable to a penalty pursuant to the provisions of the Provincial Offences Act.

7.2 Set fines may be established for certain offences contained in this by-law. Such set fines shall be established pursuant to the Provincial Offences Act and shall become effective upon the approval of same by a Senior Judge of the Ontario Court of Justice, Provincial Division.

## 8.0 SEVERABILITY

8.1 Should any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.

## 9.0 REPEAL

9.1 By-law No. 4276-76 as amended is hereby repealed.

## 10. EFFECTIVE DATE

10.1 The provisions of this by-law shall come into force and take effect upon the passing thereof.

Read a first and second time this 3rd day of September, 1996

Read a third time and passed this 16th day of September, 1996

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk