



OFFICE CONSOLIDATION

FENCE BY-LAW

BY-LAW NUMBER 119-05

Passed by Council on November 28, 2005

Amendments:		
By-Law Number	Date Passed	Section Amended
55-07	April 23, 2007	Delete Private Swimming Pool Definition and Section 3.5
106-07	July 9, 2007	To add Privacy Screen & Variance Sections

Note: This consolidation is prepared for convenience only. For accurate reference, the original by-laws should be reviewed.

Fence By-Law No. 119-05

Section 1	Definitions
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THE CORPORATION OF THE TOWNSHIP OF SCUGOG

BY-LAW NUMBER 119-05

BEING A BY-LAW TO PRESCRIBE THE HEIGHT AND DESCRIPTION OF LAWFUL FENCES AND TO REQUIRE THE MAINTENANCE THEREOF.

WHEREAS Section 11(1) of the Municipal Act, S.O. 2001, c.25 authorizes municipalities to pass By-Laws for prescribing the height and description of lawful fences; for determining how the cost of division fences shall be apportioned, and providing that any amount so apportioned shall be recoverable under the Provincial Offences Act.

NOW THEREFORE the Council of The Corporation of the Township of Scugog enacts as follows:

DEFINITIONS

Section 1. In this By-Law:

- a) “Barbed Wire” means Fence wire with twisted wire spikes along it’s length,
- b) Chief Building Official” means the officer employed by the Corporation of the Township of Scugog as is appointed under the Building By-Law and shall include any inspector likewise appointed;
- c) “Council” means the Council of the Corporation of the Township of Scugog;
- d) “Corner Lot” means a Lot situated at the intersection of two or more streets having an angle of intersection of not more than one hundred a thirty-five degrees (135);
- e) “Day Lighting Triangle” shall mean an area free of building or structures, which area is to be determined by measuring from the point of intersection of Street Lines on a Corner Lot, the distance of 9 m (30 feet) along each Street Line and joining such points with a straight line. The triangular shaped land between the intersecting Street Lines and the straight line joining the points within the required distance along the Street Lines is the Day Lighting Triangle;
- f) “Design Criteria” means the Design Criteria, established by Council for Subdivision Development and other Site Plans as described in By-Law 38-03 its amendments or any of its successor By-Laws or amendments.
- g) “Division Fence” means a Fence marking a boundary between adjoining parcels of land, not under common ownership;
- h) “Electrical Fence” means a Fence through which electricity passes;

- i) “Erect” includes alter, construct, place, locate, install or relocate;
- j) “Fence” includes a railing, wall, hedge, line of posts, shrubs, wire, gate, boards or other similar substances, used to enclose or divide in whole or in part a yard or other land or to establish a property boundary, but does not include a line of trees, of which the bases are more than 1 meter (3 feet) apart;
- k) “Front Lot Line” means, in the case of an interior Lot, the line that divides a Lot from the street. In the case of a Corner Lot, the shorter Lot line abutting a street or private right-of-way shall be deemed the Front Lot Line and the longer lot line abutting a street shall be deemed an exterior side lot line. In the case of a through Lot, the lot line where the principal access to the Lot is provided shall be deemed to be the Front Lot Line;
- l) “Good state of repair” means:
 - i) the enclosure is complete and in a structurally sound condition and plumb and securely anchored,
 - ii) where required, protected by weather-resistant materials,
 - iii) enclosure components and hardware are not broken, rusted, rotten or in a hazardous condition,
 - iv) all stained or painted enclosures are maintained free of peeling,
 - v) the enclosure does not present an unsightly appearance deleterious to abutting land or to the neighborhood.
- m) “Grade” means the surface of the Grade below a Fence at each location where a structural support is imbedded in the ground;
- n) “Highway” includes a common and public Highway, street, avenue, driveway, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- o) “Lot” means any parcel of land which can be alienated or otherwise disposed of apart from any abutting lands, whether or not such Lot is described in a registered deed or shown on a registered plan of subdivision;
- p) “Municipal Law Enforcement Officer” means a Municipal Law Enforcement Officer appointed to enforce the By-laws of the Township of Scugog;
- q) “Owner” means the Owner of land as identified by the most current tax assessment roll and shall include any Person acting on his behalf or as his agent in respect of such land;

- r) "Person" includes a Person as defined in accordance with The Interpretation Act, R.S.O. 1990, as amended;
- s) "Privacy Screen" means a visual barrier used to shield any part of a yard from view from any adjacent parcel of land or any highway;
- t) "Rear Lot Line" means the lot line farthest from and opposite the Front Lot Line;
- u) "Street Line" means the limit of the street or road allowance and is the dividing line between a Lot or block and a street or road;
- v) "Township" means the Corporation of the Township of Scugog;
- w) "Work" means to construct, reconstruct, maintain or repair a Division Fence;
- x) "Yard" means any open, uncovered and unoccupied space appurtenant to a building; and
 - a) "Exterior side yard" means a side yard of a Corner Lot between the Street Line, or a 0.3m (1 foot) reserve held by the Township that abuts the Street Line, and the nearest main wall or part thereof of the main building or structure on the Lot;
 - b) "Front yard" means a yard extending across the full width of the Lot between the Front Lot Line and the nearest wall or part thereof of the main building or structure on the Lot;
 - c) "Interior side yard" means a side yard other than an exterior side yard;
 - d) "Rear yard" means a yard extending across the full width of the property between the Rear Lot Line and the nearest wall of the main building or structure;
 - e) "Side yard" means a yard extending from the front yard to the rear yard and from the side lot line and the nearest wall or part thereof of the main building or structure on the Lot.

GENERAL PROVISIONS

Section 2

- 2.1 No Person shall Erect or cause to be Erected in a front Yard on any property, a Fence which is higher than 1.2 meters (4 feet) above Grade.
- 2.2 No Person shall Erect or cause to be Erected in a side Yard or rear Yard on any residential property, a Fence which is higher than two (2) meters (6.5 feet) above Grade.
- 2.3 No Person shall Erect or cause to be Erected any Fence, shrub, plant or other structure or object within a Day Lighting Triangle, where such Fence, shrub, plant or other structure or object is higher than .75 meters (2.5 feet) above finished Grade of any street it borders.
- 2.4 No Person shall Erect, cause to be Erected, permit or maintain a Fence, shrub, plant, structure or any object which, by reason of location or design, obstructs the vision of drivers, either when leaving a roadway or when entering a roadway from another roadway or private driveway, or which obstructs or detracts from the visibility or effectiveness of any traffic sign or control device on a public street or which, for any other reason, constitutes a hazard.
- 2.5 All new development in Commercial and Industrial Zoned properties, as described by the Township of Scugog Zoning By-law shall require Site Plan Approval prior to any fence being erected on such property.
- 2.6 No Person shall Erect or cause to be Erected in a side Yard or a rear Yard on any commercial or industrial property, as defined in the Township's Zoning By-law, a Fence which is higher than 3.048 meters (10 feet) above Grade.
- 2.7 No Person shall Erect or cause to be Erected a Fence containing Barbed Wire or any other fencing designed or manufactured to inflict injury to any Person, on any lands within the Township except as provided for in Section 6 of this By-Law.
- 2.8 No Person shall Erect or cause to be Erected an Electrical Fence on any lands within the Township except as provided for in Section 6 of this By-Law.
- 2.9 An electrical animal containment system buried under ground, where the contained animal wears a form of transmitter to activate an electrical charge is not a Fence.
- 2.10 No Person shall Erect or cause to be Erected a Fence on any public land owned by the Township or on any Highway without the written approval of Council or other government agency authority.

- 2.11 Notwithstanding the provisions of this By-law, all Fences must conform with any and all provisions of the Zoning By-law and the conditions set out by the Zoning By-law shall prevail.
- 2.12 Notwithstanding the provisions of this By-law, all Fences Erected prior to the passing of this By-law and continually maintained, which do not conform with this By-law shall be deemed as legal non conforming.
- 2.13 Any divisional Fence that is required to be replaced, in whole or in part, shall be brought into conformity with the provisions of this By-law.
- 2.14 Notwithstanding the provisions of this By-law, the Zoning By-law or any Site Plan Agreement, all Fences Erected within the Township shall conform to established community standards and shall meet Design Criteria as adopted by the Township and shall not detract from the appearance of any property within the community.

FENCES ON RESIDENTIAL PROPERTIES

Section 3

- 3.1 All Fences Erected in a front Yard shall be constructed of such material or in such manner as to permit the passage of light.
- 3.2 Section 2.2 shall not apply where the Fence is:
- a) erected and used to enclose or delineate an area required for and lawfully used as a tennis court, provided the Fence is of chain link construction;
 - b) a noise control barrier Erected by or as a requirement of a government agency acting pursuant to statutory authority; or
 - c) located on land abutting land used for industrial or commercial purposes or utility installations;
- 3.3 Where a rear Yard of a Lot is adjacent to the front Yard of another Lot, Section 2.2 shall apply.
- 3.4 In the case of a Corner Lot where the larger usable Yard is located in the interior side Yard rather than the rear Yard, as defined herein, a Fence on that portion of the front Yard adjacent to the interior side Yard may be two (2) meters above Grade in height.

PRIVACY SCREEN

Section 4

- 4.1 No person shall erect, or cause to be erected, a privacy screen in a front yard.

- 4.2 No person shall erect, or cause to be erected, a privacy screen in a side or rear yard except in accordance with the following provisions:
- a) the privacy screen is located at least 1.2 metres (4 feet) from any side or rear lot line;
 - b) the privacy screen is no more than 2.44 metres (8 feet) in heights; and
 - c) the lateral length of the privacy screen is no more than 6 metres (20 feet) in length.

FENCES ON COMMERCIAL & INDUSTRIAL PROPERTIES

Section 5

- 5.1 Where a commercial or industrial property abuts a residential property, as defined in the Township's Zoning By-law, the maximum permitted height of a Fence shall be 3.048 meters (10 feet) above Grade.
- 5.2 Section 2.5 shall not apply where the Fence is a noise control barrier Erected by or as a requirement of a government agency acting pursuant to statutory authority.

HAZARDOUS FENCES

Section 6

- 6.1 Properties located within an M1, M2 or M3 zone, as defined in the Township's Zoning by-law, shall be exempt from Section 2.7 provided that the Barbed Wire is installed at the top of the Fence and that the Barbed Wire projects inwards to the area enclosed by the Fence and provided that it complies with the outside storage requirements of the Township's Zoning By-law.
- 6.2 Section 2.7 shall not apply to lands within a RU zone, as defined in the Township's Zoning By-law, provided it is used in conjunction with an active farming operation.
- 6.3 Section 2.8 shall not apply to lands located within a RU zone, as defined in the Township's Zoning By-law, provided it is used in conjunction with an active farming operation. The maximum electrical current shall not exceed 120 volts at .04 amps and it shall comply with The Energy Competition Act, S.O. 1998, and the regulations thereunder, as amended, from time to time. The Fence shall be sufficiently signed as to warn neighboring residential use properties, of a potential safety hazard.
- 6.4 Wood Lot or wetland properties within the Township, where Fence construction is difficult, may be exempt from Section 2.7 and may Erect Barbed Wire along the Fence line provided there is mutual consent of all adjoining property Owners.

The Township shall be informed by letter of any mutual agreement and it shall be signed by all involved property Owners prior to any Erection of said Barbed Wire.

- 6.5 Fence wire, commonly known as “Razor Wire, Ribbon Wire and Anti-personnel Wire”, and any other fencing designed or manufactured to inflict injury to any Person is strictly prohibited.

HIGHWAYS AND OTHER PUBLIC LANDS

Section 7

- 7.1 A Fence separating land owned by the Township from other land shall be constructed in accordance with the specifications contained in a Site Plan Agreement and it is constructed with an equivalent degree of stability and that safety and durability is maintained. The Fence shall conform to the Design Criteria and Standards of the Township of Scugog.
- 7.2 A Fence Erected as a noise control barrier shall be maintained by the Owner of the land on which the Fence is Erected and shall be of the same construction provided the material is available.
- 7.3 A gate Erected in a Fence, separating land owned by the Township from other land, shall not reduce the degree of stability, safety and durability of the Fence.

FENCE VARIANCE

Section 8

- 8.1 Any person, being the occupier or owner of land in the Township of Scugog, may apply to the Municipal Law Enforcement Officer for permission to exceed any of the requirements set out in this By-Law, and if the Officer is satisfied that the proposed application is reasonable and does not contravene the purpose and intent of the provisions of this By-Law, then the Officer may grant such permission, in whole or in part, conditionally or unconditionally, as is deemed advisable.
- 8.2 Any person submitting an application pursuant to subsection 8.1 or subsection 8.4 shall supply to the Township:
- a) a completed application form;
 - b) a site plan including:
 - north arrow
 - drawing scale
 - location of fence
 - existing/proposed structures
 - c) any other relevant information and/or documents requested.

- 8.3 The Municipal Law Enforcement Officer shall render the decision with respect to any application made pursuant to the provisions of subsection 8.1 within 14 days of receipt of the application and shall forward written notice of the decision to the applicant by prepaid ordinary mail, together with notice of the applicant's right to appeal the Officer's decision to the Council of the Township of Scugog pursuant to subsection 8.4 hereof.
- 8.4 Any person who has made an application pursuant to the provisions of subsection 8.1 and who has received notice of the decision of the Municipal Law Enforcement Officer pursuant to the provisions of subsection 8.2 shall have the right to appeal to the Council of the Township of Scugog from the decision of the Officer.
- 8.5 An appeal shall be in writing, addressed to the Town Clerk and received no later than 21 days after the date of the Officer's decision as indicated on the notice of decision.
- 8.6 Each Variance will be examined and a decision rendered on its own individual merit and shall not set precedent.
- 8.7 Any person who has been granted approval in accordance with this By-Law shall contact the Municipal Law Enforcement Officer to arrange for an inspection at the commencement and conclusion of the work, and shall request such further inspection as may be required.

MAINTENANCE

Section 9

- 9.1 The Owner of the land on which a Fence is Erected shall maintain such Fence in a Good State of Repair.
- 9.2 For the purpose of this By-law "Good State of Repair" shall mean:
 - a) the Fence is complete and in a structurally sound condition and plumb and securely anchored;
 - b) protected by weather-resistant materials;
 - c) all painted or stained Fences are free from peeling; and
 - d) that the Fence does not present an unsightly appearance deleterious to abutting land or to the neighborhood.

- 9.3 The Owner or occupant of any Fence or the agent or employee of such Owner or occupant has the right to enter any adjoining land for the purpose of making repairs, alterations or improvements to such Fence but only to the extent necessary to effect such repairs, alterations or improvements.

A Person exercising the power of entry must display or, on request, produce proper identification. The Owner or occupant shall provide reasonable notice of the proposed entry to the occupier of the adjoining land. The Owner or occupant of land shall, in so far as it is practicable, restore the adjoining land to its original condition and the Owner or occupant shall provide compensation for any damages caused by the entry or by anything done on the adjoining land.

- 9.4 Any Fence constructed, reconstructed or repaired within an area designated as a heritage conservation district, pursuant to Part V of the Ontario Heritage Act, is subject to all requirements of obtaining a permit pursuant to such legislation.
- 9.5 If any part of this By-Law conflicts with any Provincial or Federal Statute, the provisions that are the most severe shall prevail and where this By-Law conflicts with provisions of By-Law Number 60-74, The Pool By-Law, provisions of this By-Law shall prevail.

ADMINISTRATION AND ENFORCEMENT

Section 10

- 10.1 The Municipal Law Enforcement Officer shall be responsible for the Administration and Enforcement of this By-law except whereas otherwise specified in this by-law.
- 10.2 The Chief Building Official shall be responsible for the Administration and Enforcement of Section 2.5 of this By-law .

PENALTIES

Section 11

- 11.1 Any Owner who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs as prescribed by the Provincial Offences Act, R.S.O. 1990

REPEAL OF BY-LAWS

Section 12

- 12.1 By-law Numbers 90-79 and 55-00 are hereby repealed.

SEVERABILITY

Section 13

13.1 If a court of competent jurisdiction should declare any section of this By-law, or part thereof, to be invalid, such section or part of a section shall not be constructed as having persuaded or influenced Council to pass the remainder of this By-law as having being invalid and is hereby declared that the remainder of the By-law shall be valid and shall remain in force.

SHORT TITLE

Section 14

14.1 The short Title of this By-law shall be "The Fence By-law".

DATE EFFECTIVE

Section 15

15.1 This By-law shall come into effect on the day of passing.

Read a First, Second and Third time and finally passed this 28th day of November, 2005.

(Signed) Marilyn Pearce
MAYOR, Marilyn Pearce

(Signed) Kim Coates
CLERK, Kim Coates