

# The Corporation of the Town of The Blue Mountains

## By-Law Number 2003 – 14 Office Consolidation (By-law No. 2007-19 & 2008-5)

### Being a By-law for prescribing the height and description of lawful fences.

Whereas Section 11 of the Municipal Act, 2001, and amendments thereto, enables the councils of local municipalities to pass by-laws to regulate fences;

And Whereas Council of the Corporation of the Town of The Blue Mountains deems it expedient to pass such a by-law;

Now Therefore Council of The Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. This By-law may be cited as the “Fence By-law”.

### 2. Definitions

In this By-law;

- i) “Commercial Zone” means any land located in an area designated C1, C2, C3, C4, C8 and SF by Zoning By-law No. 83-40, as amended and designated C1, C2, C3 and C4 by Zoning By-law No. 10-77, as amended;
- ii) “Development Zone” means any land located in an area designated D and DD by Zoning By-law No. 83-40, as amended, or D by Zoning By-law No. 10-77, as amended;
- iii) “corner lot” means a lot situated at the intersection of and abutting upon two or more streets, provided that the angle of intersection of such streets is not more than one hundred and thirty-five (135) degrees;
- iv) “fence” means a structure comprised of wood, metal, steel, plastic, concrete, stone or other material or any composite thereof (By-law No. 2007-19);
- v) “front lot line” means in the case of an interior lot, the line dividing the lot from the street. In the case of a corner lot, the shorter lot line abutting the street. In the case of a through lot, only one if the lot lines abutting a street shall be deemed to be the front lot line and the opposite lot line shall be the rear lot line;
- vi) “front yard” means a yard extending across the full width of the lot between the front lot line and the nearest part of any building or structure on the lot. In the case of a lot which does not have a building or structure situated thereon, the front yard shall mean that portion of the lot between the front lot line and the minimum front yard setback as required by Zoning By-law No. 83-40, as amended, or, Zoning By-law No. 10-77, as amended;
- vii) “grade” means the average elevation of the natural or finished level of the ground, whichever is lower, adjoining any part of the face of the fence length or span;
- viii) “height” means the distance to the top or upper projection of any part of a fence measured from grade to such point anywhere along the length or span of such fence;
- ix) “Industrial Zone” means any land designated M1, M2, M3 M4 and M5 by Zoning By-law No. 83-40, as amended, or M1 and M2 by Zoning By-law No, 10-77, as amended;
- x) “Institutional Zone” means any land designated I by Zoning By-law Nos. 83-40, as amended or Zoning By-law No. 10-77, as amended;
- xi) “interior lot” means any lot which has street access, other than a corner lot;
- xii) “Parking Zone” means any land designated P by Zoning By-law No. 83-40, as amended;
- xiii) “rear yard” means a yard extending across the full width of the lot between the rear lot line and the nearest point of any building or structure on the lot;

- xiv) “Residential Zone” means any land located in an area designated R1, R2, R3, R4, R5, R6, R7, R8, ER, RR and VR pursuant to Zoning By-law No. 83-40, as amended, or R1, R2, R3, RM1 or RM2 by Zoning By-law No. 10-77, as amended;
- xv) “side yard” means a yard extending from the front yard to the rear yard and from the side lot line to the nearest part of any building or structure on the lot;
- xvi) “sight triangle” means the triangular space formed by the street lines or a corner lot and a line drawn from a point in one street line to a point in the other street line or railway line, each such point being 9 metres from the point of intersection of the street lines measured along the street lines. Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street;
- xvii) “through lot” means a lot bounded on two opposite sides by a street;

### **3. Application of By-law**

This By-law applies to land located in any Commercial Zone, Development Zone, Industrial one, Institutional Zone, Parking Zone and Residential Zone.

### **4. Maximum Height of Fence – Residential Zone**

Except as provided for in Sections 5 and 11 and as required by Section 7, no person shall construct or cause to be constructed any fence on any land located in a Residential Zone with a height of more than two (2) metres above grade in any side or rear yard or more than one (1) metre above grade in any front yard.

### **5. Exception – Maximum Height of Fence, Residential Zone**

- (i) Subject to Section 7, Section 4 does not apply to prevent the construction of a fence in a Residential Zone having a height of not more than 2.5 metres above grade on that portion of the lot that meets, abuts or is contiguous with land that is located in other than a Residential Zone. This exception shall not apply so as to permit:
  - (a) the construction of a fence in any side or rear yard abutting any private or public right-of-way having a height in excess of 2 metres above grade;
  - or,
  - (b) the construction of a fence in any front yard abutting any private or public right-of-way having a height in excess of one 1 metre above grade.
- (ii) Subject to Section 7, Section 4 does not apply to prevent the construction of a fence in a Residential Zone for the purposes of enclosing a tennis court having a height of not more than 3.2 metres above grade and located a minimum of 1.2 metres from any lot line, except a front lot line where such fence must be a minimum of 2.5 metres from the front lot line, and provided such tennis court is located in compliance with the provisions of the applicable Zoning By-law. (By-law No. 2007- 19).

### **6. Maximum Height of Fence – Other Than a Residential Zone**

Except as provided for in Section 11 and as required by Section 7, no person shall construct or cause to be constructed any fence in any Commercial Zone, Development Zone, Industrial Zone, Institutional Zone or Parking Zone with a height of more than two and one- half (2.5) metres above grade.

### **7. Prohibition – Fence in Sight Triangle**

No person shall construct or cause to be constructed any fence in a sight triangle.

### **8. Restriction – Materials of Construction, Residential Zone**

No person shall construct or cause to be constructed any fence in any Residential Zone comprised of solid panel members of metal, steel or concrete or similar materials.

### **9. Restriction – Barbed, Razor or Similar Material**

No person shall construct or cause to be constructed any fence having barbed, razor or similar wire or material.

**10. Maintenance of Fences**

Every fence must be maintained in a good state of repair and be effectively at ninety (90) degrees to the ground.

**11. Exception – Sections 41 and 51 of The Planning Act**

If an Agreement pursuant to Sections 41 or 51 of the Planning Act has been entered into, the provisions of that Agreement respecting fencing shall prevail over the provisions of this By-law.

**12. Variances to Fence By-law**

Notwithstanding the provisions of this By-law, the Committee of Adjustment may authorize minor variances from the provisions of this By-law as, in its opinion, is desirable for the appropriate development or use of the land and where the general intent and purpose of the by-law is maintained (By-law No. 2008-05).

**13. Enforcement**

Every person who contravenes any provision of this By-law is guilty of an offence and shall be liable to a penalty as provided in the Provincial Offences Act.

Read a first and second time, this 27th day of January, 2003.

Read a third time and passed this 27th day of January, 2003.

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Ross Arthur, Mayor

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Stephen Keast, Clerk