

**THE CORPORATION OF THE TOWNSHIP OF  
OTONABEE-SOUTH MONAGHAN  
2024-73**

Being a By-Law to Prescribe Standards for the Construction and Maintenance of Fences  
within the Township of Otonabee-South Monaghan

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**WHEREAS** Section 11 (3) 7 of the *Municipal Act, 2001, S.O. 2001 c.25*, as amended, provides that a municipality may pass By-laws respecting structures, including fences and signs; and

**WHEREAS** Section 8 of the *Municipal Act, 2001, S.O. 2001 c.25*, provides that the powers of a municipality as granted by the Act or any other Act shall be interpreted broadly so as to a) enable the municipality to govern its affairs as it considers appropriate and b) enhance the municipalities ability to respond to municipal issues; and

**WHEREAS** Section 9 of the *Municipal Act, 2001, S.O. 2001 c. 25* as amended, provides that a municipality has the capacity, right, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

**WHEREAS** Section 425 (1) of the *Municipal Act, 2001, S.O. 2001 c.25*, authorizes a municipality to pass a By-Law providing that a person who contravenes a By-law passed under this Act is guilty of an offence; and

**WHEREAS** Section 436 (1) of the *Municipal Act, 2001, S.O. 2001 c.25*, authorizes a municipality to pass by-laws to authorize the right to enter land under certain circumstances; and

**WHEREAS** the Council of the Township of Otonabee-South Monaghan deems it necessary to regulate the building and maintenance of fence structures within the Township of Otonabee-South Monaghan;

**NOW THEREFORE** the Council of the Corporation of the Township of Otonabee-South Monaghan hereby enacts as follows:

**1. Short Title**

The short title of this By-Law is the **Fence By-Law**.

## 2. Definitions

For the purpose of this By-Law:

**Building** means a structure and temporary structure used or intended to be used for shelter, accommodation, or enclosure of persons, animals, or goods and shall not include a lawfully bound fence.

**Building Inspector or Inspector** means an inspector appointed by the Municipality pursuant to the provision of this By-law and includes the Chief Building Official.

**Chief Building Official** means the Chief Building Official as appointed on behalf of the Township of Otonabee-South Monaghan, and his or her designate.

**Construct** means to do anything in the erection, installations, extension or material alteration or repair, or removal of any building or structure of any part thereof.

**Construction Value** means the total value of all design services, labour materials, overhead and related services attributable to and/or which an application has been submitted.

**Corner Lot** means a lot situated at the intersection of two streets, of which two adjacent sides, that abut the intersecting streets, contain an angle of not more than one hundred and thirty-five (135) degrees; where such adjacent sides are curved, the angle of intersection of the adjacent sides shall be deemed to be the angle formed by the intersection of the tangents to the street lines, drawn through the extremities of the interior lot lines, provided that in the latter case, the corner of the lot shall be deemed to be that point on the street line nearest to the point of intersection of the said tangents.

**Division Fence** means a fence used to define a property line.

**Fence** means any structure used to enclose or divide, in whole or in part, a yard or other land to establish a property boundary, or to provide privacy.

**Gate** means a door or other devise constructed that may be opened to gain access to an area enclosed by a fence.

**Ground level** means the level of the grade adjacent to the fence excluding any gardens, flower planters or built-up landscaping to allow the fence to be higher than regulated under this By-law.

**Height** means the vertical distance measured from the ground level where the fence posts are embedded to the top of said fence excluding the post. Where a fence is located on the top of a retaining wall, "height" shall mean the vertical distance measured from the top of the retaining wall to the highest point of the fence excluding the post.

**Hoarding Fence** means a fence or similar structure used to enclose a property or part thereof which is under development, site alteration or maintenance.

**Lot** means a parcel or tract of land described in a deed or other legal document which is legally capable of conveying title and:

(a) which is a whole lot within a registered plan of subdivision, other than a registered plan of subdivision which has been deemed not to be registered plan of subdivision under a By-law passed pursuant to Section 50 of the Planning Act, 1990, as amended;

or

(b) which is a legally separated parcel of land in existence on the date of passing of this By-law without the owner holding the fee or the equity of redemption in, or power or right to grant, assign or exercise a power of appointment with respect to any abutting land; or

(c) the description of which is the same as in a deed which has received final consent to a conveyance pursuant to Section 53 of the Planning Act, 1990, as amended; or

(d) is the whole remnant remaining to an owner or owners after a consent to sever has been granted pursuant to Section 53 of the Planning Act, 1990, as amended, with respect to all other adjoining lands of the owner or owners provided that the consent or consents mentioned above have not lapsed under Subsection 53 (43) of the Planning Act, 1990, but for the purpose of this paragraph no parcel or tract of land ceases to be a lot by reason only of the fact that a part or parts of it has or have been conveyed to or acquired by the Township of Otonabee-South Monaghan, the County of Peterborough, Her Majesty in the Right of Ontario, or Her Majesty in the Right of Canada; or,

(e) which is the subject of an order of the Minister of Municipal Affairs and Housing pursuant to the provisions of Section 50 of the Planning Act, 1990, as amended.

**Lot Line** means any boundary of a lot or the vertical projection thereof.

**Lot Line Front** means in the case of an interior lot, the lot line dividing the 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. In the case of a lot fronting on a navigable waterway and an improved public street, the lot line abutting the street shall be deemed to be the front lot line. In the case of a lot fronting on a navigable waterway and which does not abut an improved public street, the lot line abutting the navigable waterway shall be deemed to be the front lot line. For lots in the Limited Service Residential (LSR) Zone that do not abut a navigable waterway, the front lot line shall be the lot line dividing the lot from a private right-of-way.

**Officer** means a By-law enforcement officer or building inspector employed by the Township of Otonabee-South Monaghan.

**Owner** means a registered owner of lands and includes a lessee, tenant, mortgagee in possession or the person in charge of any property.

**Principal Building** means a building or structure in which primary use is conducted.

**Public Uses and Utilities** means use of any lot for the purposes of public services provided by the Township or any Public Authority including the county of Peterborough, government of Canada and Ontario, conservation authority, hydro, telephone and telecommunication and natural gas companies.

**Service Entrance** means the entrance into a building which is normally used by persons delivering goods or rendering maintenance service as opposed to the main or principal entrance. For the purpose of this By-law any building entrance other than principal entrance may be considered to be a service entrance.

**Sight Triangle** means the triangular space formed on a Corner Lot by the street lines and a line drawn from a point in one street line, to a point in the other street, each point being 9.0 metres (29'-6") measured along the street line from the point of intersection of the street lines. Where the street lines do not intersect at a point, the point of intersection of the street lines (or tangents) shall be deemed to be the intersection of the projection of the street, or the intersection of the tangents to the street line.

**Snow Fencing** means a fence commonly used for the control of snow and which is usually constructed of plastic mesh, lightweight wood strip or wire fencing.

**Street Line** means the limit of the street or road allowance which is the dividing line between the lot or block and the street.

**Swimming Pool** means any body of water outdoors contained by an artificial structure, and used or maintained for the purpose of swimming, wading, bathing or diving.

**Township** means the Corporation of the Township of Otonabee-South Monaghan.

**Waterbody** means any bay, lake, canal or natural watercourse but excludes a drainage or irrigation channel.

**Yard - Front** means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of any building or structure on the lot, the nearest outside storage use on the lot, or edge or rim of an excavation on the lot

**Yard - Rear** means a yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of any building or structure on the lot, or the nearest outside storage use on the lot, or the edge or rim of an excavation on the lot

**Yard - Exterior Side** means a side yard immediately adjoining a public street.

**Yard - Side** means a yard extending from the required front yard to the required rear yard and from the side lot line of the lot to the nearest part of any building or structure on the lot, or the nearest outside storage use on the lot, or the edge or rim of an excavation on the lot.

**Yard - Water** means the yard extending from the high water mark on any body of water to the nearest wall of any building or structure on the lot.

**Zone** means a zone as designated in the Township of Otonabee-South Monaghan Zoning By-Law as amended pursuant to the Planning Act.

### **3. Application of this By-Law**

3.1 This By-law shall apply to all Fences erected in the Township on and after the date of enactment and passage of the By-law.

3.2 All Fences shall be maintained in a good state of repair and in a safe condition.

### **4. Exemptions**

4.1 Notwithstanding Section 3, a Fence as provided below, shall be exempt from all parts of this By-law with the exception of Part 15 Maintenance of Fences:

a) A Fence erected in accordance with an approved Site Plan or Subdivision Agreement.

b) A Fence erected for Public Uses and Utilities.

c) Hoarding Fence erected as required by applicable Federal, Provincial and Municipal regulations to meet safety, storage, crowd control, public safety or security and theft deterrence.

d) Snow Fencing used temporarily to control snow or as Hoarding Fence to protect property undergoing construction. Such Snow Fencing shall be removed upon completion of the winter season or construction.

e) Large hedges or a line of trees acting as a Fence in a side or rear yard that do not cause any visual obstruction to persons or vehicles while entering or exiting a driveway or traveling along a street, lane or sidewalk.

- f) A Fence erected within a property designated Agricultural (A) Zone as defined in the Township of Otonabee-South Monaghan's Comprehensive Zoning By-law as amended.
- g) A Fence erected within a property designated Rural (RU) Zone as defined in the Township of Otonabee-South Monaghan's Comprehensive Zoning By-law as amended.

## **5. Existing Fences**

- 5.1 Notwithstanding the provisions of this By-law to the contrary, any Fence that was in lawful existence prior to the effective date of this By-law shall be deemed to comply with this By-law and may be maintained at the same location, height and dimensions as previously existed.
- 5.2 Any Fence in existence at the date of passing of this By-law, which does not conform to the provisions herein, and which, anytime thereafter, is in need of replacement or reconstruction, shall be built in conformity with the provisions of this By-law.

## **6. Restricted Fences**

- 6.1 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained the following:
  - a) Snow Fencing as part or in place of permanent fencing.
  - b) A Fence comprised of sheet metal or corrugated metal panels.
  - c) A Fence that contains or is constructed of any hazardous materials such as razor wire, barbed wire, or any other sharp projections capable of causing physical injuries to humans. Such materials may be used for bona fide agricultural purposes for livestock containment and may also be considered in designated Industrial Zones and used at a height of 1.8 metres (5'-11") above ground level at the discretion of the Chief Building Official.

- d) A Fence or any attachment to a Fence which may be used as a conductor of an electrical current save and except for the purposes of managing livestock as part of an active agricultural facility.
- e) A Fence erected, which by reason of its location, design or materials, obstructs traffic sightlines or which obstructs or detracts from the visibility or effectiveness of any traffic sign or traffic control device on a public street.

## **7. Residential Fences**

7.1 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a lot in a Residential Zone except in accordance with the following regulations:

- a) A fence erected within a rear or side yard shall not exceed a height of 1.8 metres (5'-11").
- b) A fence erected in a front or exterior side yard shall not exceed 1 metres (3'-3") in height when constructed of solid materials and does not exceed 1.2 metres (4'-0") in height when constructed of open materials.
- c) A fence erected in a water yard shall not exceed the height of 1.2 metres (4'-0").
- d) Notwithstanding Section 8.1, but subject to the provisions of Section 15 of this by-law;
  - i) Decorative items on structural posts may exceed the height restrictions to a maximum of 15.2cm (6").
  - ii) Archways or gateways forming part of an entrance may exceed the height restrictions to a maximum of 2.4m (7'-11").

## **8. Non-Residential Fences**

8.1 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a lot in a Non-Residential Zone except in accordance with the following regulations:

- a) The maximum height of a fence located in a non-residential Zone is 2.4 metres (7'-11").
- b) Notwithstanding Section 8.1 a), the maximum height of a fence located within 7.6 metres (25'-0") from the front lot line shall not exceed 1.2 metres (4'-0").

## **9. Sight Triangles**

9.1 Notwithstanding any other provisions of the By-law, no person shall, within a Sight Triangle, as defined herein, erect or cause to be erected a Fence which would obstruct the vision of drivers or motor vehicles.

9.2 A fence erected in a Sight Triangle shall not exceed 0.6 metre (2'-0") in height.

## **10. Fences as Swimming Pool Enclosures**

10.1 A fence which is to form a swimming pool enclosure or part thereof shall be constructed in compliance with the provisions of the Township of Otonabee-South Monaghan Pool by-law 2009-22 as amended.

## **11. Maintenance of Fences**

11.1 The owner of the land on which a Fence is erected (installed) shall maintain such Fence in a good state of repair to ensure that the Fence:

- a) is structurally sound condition, plumb and securely anchored,
- b) is protected by weather-resistant materials,
- c) components are not broken, rusted, rotten or in a hazardous condition,

- d) is stained or painted and is maintained free of peeling, and
- e) does not present an unsightly appearance deleterious to the abutting land or neighbourhood and is free of markings or other defacements on the exterior surface.

## **12. Fence Variance**

12.1 A height variance may be authorized by the Chief Building Official, if in his/her opinion the Fence is not causing a visual obstruction to persons or vehicles while entering or exiting a driveway or travelling along a street, lane or sidewalk. The variance approval process is as follows:

- a) Submission of an application form prescribed by the Chief Building Official. (Appendix A – Fence Variance Application)
- b) Submission of applicable drawings, site plan and specifications for the proposed Fence; and
- c) Payment of the requisite fee.

12.2 In considering an application for a variance, the Chief Building Official shall have regard for:

- a) Whether there are any special circumstances or conditions applying to the property or building(s) on the surrounding property;
- b) Whether such special circumstances or conditions are pre-existing; and
- c) Whether the fence that is subject of the variance application will cause any safety hazards to the proposed location or cause a visual obstruction to persons or vehicles while entering or exiting a driveway or travelling along a street or lane.

**13. Administration and Enforcement**

- 13.1 Any person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction liable to a fine or penalty for each offence, exclusive of costs as prescribed by the Provincial Offences Act, R.S.O 1990.
- 13.2 That the fee for an application for a Fence Variance as set out in section 12 be established through the Township of Otonabee-South Monaghan Fees and Charges By-Law.

**14. Severability**

- 14.1 Every provision of this by-law is declared to be severable from the remainder of the by-law, and if any provisions of this by-law shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this By-Law, unless the court makes an order to the contrary.

**15. Date Effective**

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

Read the First time and second time on this    day of    , 2024.

Read a Third, time signed and sealed with the corporate Seal on this    day of    , 2024.

\_\_\_\_\_  
Mayor- Joe Taylor

\_\_\_\_\_  
Clerk- Heather Scott

**Appendix A**  
**APPLICATION FOR VARIANCE UNDER THE FENCE BY-LAW OF THE TOWNSHIP OF**  
**OTONABEE-SOUTH MONAGHAN**

Requirements for a complete application:

1. The completed application form signed by the owner(s) or authorized agent and witnessed by a commissioner for taking affidavits and all required supporting material, e.g. sketch, drawing.
  
2. A sketch to scale (include graphic scale), one (1) full size hardcopy or one (1) digital copy in PDF format showing the following:
  - a. The boundaries and dimensions of the subject land
  - b. The location, size and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the buildings or structures from the front yard lot line, the rear yard lot line and the side yard lot lines;
  - c. The approximate location of all natural and artificial features on the subject land and on land that is adjacent to the subject land that, in the opinion of the applicant, may affect the application, such as buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas, wells and septic tanks;
  - d. The current uses on land that is adjacent to the subject land, such as residential agricultural and commercial uses;
  - e. The location width and name of any roads within or abutting the subject land, such as residential, agricultural and commercial uses;
  - f. If access to the subject land is by water only, the location of the parking and boat docking facilities to be used;
  - g. The location and nature of any easement affecting the subject land.
  
3. If the applicant is not the owner of the subject land, the **written authorization** of the owner that the applicant is authorized to make the application.
  
4. The required application fee of \$150.00 payment can be made payable to the Township of Otonabee-South Monaghan by means of cash, cheque or debit transaction at the Township Office.

Please note that applications will not be processed until they are complete. The cost or preparation of any plans to be submitted with the application is the responsibility of the applicant and similarly the cost of any revisions to the plans are the responsibility of the applicant. All decisions for approval or rejection are at the discretion of the Chief Building Official and is not subject to appeal.

1. Owner's Name or Authorized Agent of Owner's Name:

\_\_\_\_\_

2. Owner's Address or Authorized Agent of Owner's Address (street, city, postal code):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Phone Number: \_\_\_\_\_

4. Email Address: \_\_\_\_\_
5. Short legal description of the subject property: \_\_\_\_\_
6. Assessment roll number of the subject property: \_\_\_\_\_
7. Is there a survey of the subject property available (if yes, please attach a copy): \_\_\_\_\_
8. Provide a short description of the nature and extent of the variance requested (Please attach any drawings, sketches, or pictures to illustrate the variance requested).  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
9. Provide a detailed reason for the request for variance and why you're unable to comply with the provisions of this by-law:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
10. Have you discussed this application with the owner(s) of the adjacent properties? \_\_\_\_\_
11. Have you obtained written consent with the owner(s) of the adjacent properties if the proposed fence is located on a shared property line. (If yes, please attach the consent(s) to this form). \_\_\_\_\_
12. Has there been a Line Fence Application related to this property? \_\_\_\_\_
13. Types of access to the proposed lands (check all that apply):
  - Municipal Road
  - Provincial Highway
  - County Road
  - Private Road
  - Right of Way
  - Water Access

**Declaration:**

I/We declare that the contents of this application are true to the best of my/our knowledge and belief.

For purposes of the Municipal Freedom of Information and Protection of Privacy Act, by signing below, you authorize and consent to the use by or disclosure to any person or public body of any personal information in this application that is collected under the authority of the Municipal Act for the purpose of processing your application.

Dated at: \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Print Name(s)

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Signature(s)

The personal information on this form is collected under authority of the Municipal Act, 2001, as amended. The information is used for the purpose of processing your application. If you have any questions about this collection of personal information, please contact the CAO, Clerk, or Deputy Clerk at the Township of Otonabee-South Monaghan.