

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

BY-LAW NUMBER 29/2010

A BY-LAW TO REGULATE HEIGHT AND DESCRIPTION OF FENCES FOR THE TOWNSHIP OF WELLESLEY

WHEREAS The *Municipal Act*, 2001, S.O. 2001, c.25, s.11 (3)7 provides that a municipality may pass by-laws respecting structures, including fences.

AND WHEREAS the Council of The Corporation of the Township of Wellesley deems it necessary to regulate fences within the Municipality.

NOW THEREFORE, the Council of the Township of Wellesley ENACTS AS FOLLOWS:

1. Short Title:

1.1 The short title of this by-law shall be cited as the “Fence By-law” for the Corporation of the Township Of Wellesley.

2. Definitions:

2.1 “Corner Daylight Triangle” means the triangular area formed by measuring 6.0m (20 feet) in each direction at the property lines from the point where two property lines intersect at the street property line corner;

2.2 “Driveway Daylight Triangle” means the triangular area formed by measuring 4.0m (13 feet) down the driveway at the property line and 4.0m (13 feet) down the side property line abutting a street;

2.3 “Farm Fence” means any fence erected in an agricultural zone as defined by the applicable zoning by-law;

2.4 “Fence” means any structure (including a gate or door), except a structural part of a building, used to wholly or partially screen from view, enclose or divide a yard or other land, or mark or substantially mark the boundary between adjoining land;

2.5 “Front Yard” means a yard extending across the full width of the lot between the front lot line of the lot and the nearest main wall of any main building or structure on the lot;

2.6 “Exterior Side Yard (flankage)” means the space, extended to the rear lot line, between the longer lot line abutting a public highway and the nearest wall of the main building or the building line on a corner lot;

2.7 “Height” means the vertical distance above grade or, if another reference point acceptable by the Township is specified, vertical distance above the other reference point;

2.8 “Rear Yard” means a yard extending across the full width of the lot between the rear lot line of the lot and the nearest main wall of any main building or structure on the lot;

2.9 “Side Yard” means a yard extending from the front yard to the rear yard and from the side lot line of the lot to the nearest main wall of any building or structure on the lot;

2.10 “Swimming Pool” means any outdoor structure, object or thing located on privately owned property that is intended to be used for swimming, wading, diving, bathing or soaking (as in a hot tub) and includes the area enclosed by a fence.

3. General Provisions (In Any Residential Zone defined by Township Zoning By-law)

3.1 Height & Location

- a) no part of any fence shall exceed 2.03 metres in height in a front, side or rear yard;
- b) no part of any fence shall be erected, nor any shrubs or foliage be planted or maintained that exceed 0.8 metres in height in a driveway daylight triangle or in a corner daylight triangle;
- c) no private fence shall be located on Township or Public lands;
- d) no private fence shall be located within 1.0 metre of any fire hydrant.
- e) no part of any fence located in a front yard or within 1.5 metres of an exterior side yard lot line shall exceed 0.8metres in height.

3.2 Type

- a) no fence shall be made of materials such as barbed wire or sharp metal protruding objects;
- b) no fence shall be an electric fence;
- c) no snow fencing shall be used as a permanent fence;
- d) all fences shall have a surface that is painted, stained, varnished or protected with a similar; protective finish, unless the material itself posses characteristics that offer protection against deterioration such as but not limited to cedar, plastic or chain link galvanized metal.

4. Fencing of Privately-Owned Swimming Pools

4.1 No person shall construct or maintain any privately-owned outdoor swimming pool unless the pool or the land on which such pool is located is fenced or enclosed in accordance with the following provisions:

- a) all swimming pools capable of holding a water depth equal to or greater than 0.8 metres require a fence and building permit;
- b) all swimming pool fences shall have a minimum height of 1.52 metres and shall not exceed 2.03 metres;
- c) where the swimming pool fence is chain link, the diamond mesh shall not have any openings greater than 3.8 centimetres;
- d) all swimming pool fences and closed gates shall have no openings greater than 10 centimetres;
- e) all swimming pool fences shall be constructed so that the only means of entry is by gates or doors of not less than 1.52 metres in height and such gate or door is capable of being locked;
- f) all swimming pool fences shall not permit access through an unlocked access or by jumping, climbing or crawling;
- g) a dwelling, building or accessory building, or part thereof, may be used to enclose a pool;
- h) in the case of an above ground pool where the walls and or guards of the pool satisfy all of the requirements otherwise required for fences which enclose swimming pools including no related climbing devices (i.e. step, ladder), no other fence is required.

5. Hot Tubs

- a) all Hot Tubs shall be fitted with a tight fitted cover, with a working locking device or be protected with a minimum 1.52 metres high fence or enclosure;
- b) if required by 5. a), all Hot Tub fences shall be constructed so that the only means of entry is by gates or doors of not less than 1.52 metres in height and such gate or door is capable of being locked.

6. Other

- 6.1 Notwithstanding any other provisions of this by-law, nothing shall prevent the construction and maintenance of farm fences in an agricultural zone or open space zone as defined by the Township Zoning By-law.
- 6.2 The use of any device for projecting electric current through or in conjunction with a fence is prohibited except on farm fences in an agricultural zone as defined by the Township Zoning By-law.
- 6.3 The provisions of this by-law shall not apply to the erection of fences for public safety by the Corporation of the Township of Wellesley or any local boards thereof, any utilities commission, including but not limited to Bell Telephone, Union Gas and Waterloo North Hydro, all Boards of Education, The Regional Municipality of Waterloo and all agents of the Crown, the Provincial and Federal Government.

7. Offence

- 7.1 Every person who contravenes any provision of this by-law is guilty of an offence.

8. Penalty

- 8.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a penalty subject to the provisions of the *Provincial Offences Act* and such penalty shall be recoverable pursuant to the *Act*.
- 8.2 If a person fails to do a matter or thing, including comply with an order under this By-law, as directed or required by this By-law, the Township may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The Township may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

The costs referred to above shall include interest calculated at a rate of 15 per cent, calculated for the period commencing on the day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full.

9. Inspection

- 9.1 The Township, by its employees or agents, may enter on land at any reasonable time to conduct an inspection or inspections pursuant to Section 436 of the Municipal Act, 2001 to determine whether or not this By-law has been complied with.

That By-law 22/2007 be repealed and By-law 29/2010 shall come into force and take effect the 31st day of August, 2010.

Read a first and second time this 31st day of August, 2010

Read a third and final time and passed this 31st day of August, 2010

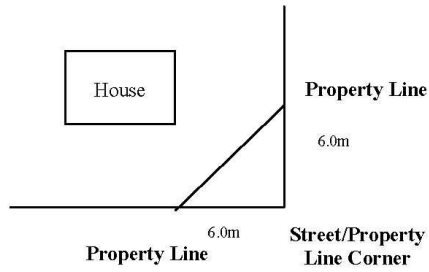
Ross Kelterborn
Mayor, Ross Kelterborn

Susan Duke
CAO/Clerk, Susan Duke

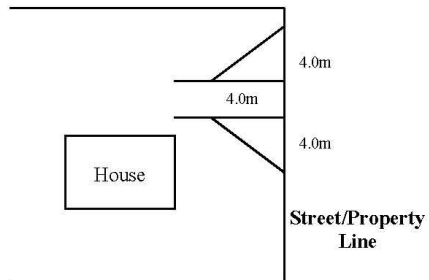
THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

SCHEDULE 'A'
to
BY-LAW NUMBER 29/2010

Corner Daylight Triangle



Driveway Daylight Triangle



This is Schedule "A" to By-law Number 29/2010 passed this 31st day of August, 2010

Ross Kelterborn

Mayor Ross Kelterborn

Susan Duke

CAO/Clerk, Susan Duke