

BEING A BY-LAW TO REGULATE THE HEIGHT AND MATERIALS OF FENCES, NATURAL FEATURES AND OTHER OBJECTS ON PROPERTIES WITHIN SPECIFIED ZONES.

WHEREAS subsection 11(2)(6) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“the Act”), as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons; and

WHEREAS subsection 11(2)(8) of the Act provides that a municipality may pass by-law respecting the protection of persons and property; and

WHEREAS subsection 11(3)(7) of the Act provides that a municipality may pass by-law respecting structures, including fences and signs; and

WHEREAS The Council of The Corporation of the Town of Cobourg wishes to regulate the height of fences, natural features and objects in certain circumstances;

NOW THEREFORE BE IT RESOLVED THAT THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF COBOURG ENACTS AS FOLLOWS:

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1. Definitions

“**By-law**” means this by-law, being a by-law to regulate the height and materials of fences, natural features and other objects on properties within specified zones, as amended.

“**Corner Sight Triangle**” means where the **front lot line** and the **exterior side lot line** intersect or are projected to intersect, a sight line triangle is that portion of a **corner lot** within the triangular space on a **lot** formed by two intersecting **lot lines** that abut a **street or highway** and a line drawn from a point on one **lot line** across such **lot** to a point in the other **lot line**, with each such point being the required distance from the point of intersection of the **lot lines** (measured along the **lot lines**) with each point being measured based on road classification established by the Official Plan as shown in Table 4.2.1

		Subject lot has access onto a:		
		Local Street	Collector Street	Arterial Road
Other Street:	Local Street	5.0 metres	7.0 metres	9.0 metres
	Collector Street	7.0 metres	7.0 metres	9.0 metres
	Arterial Road	9.0 metres	9.0 metres	9.0 metres

“**Council**” means the Town of Cobourg Council.

“**Director**” means the Town’s Director, Legislative Services.

“**Driveway Sight Triangle**” means a triangular space bounded by a Street Line, the side of a Driveway leading from that street, and a straight line joining the points in that Street Line and the side of the Driveway which points are each a distance of 3.0 metres from the point of their intersection

“**Fence**” means a structure that encloses or acts as a barrier to a Lot or that defines a Lot Line

“**Height**” means, as applicable:

- (i) the vertical distance between the finished grade at the base of a Fence, Natural Feature, thing or object and the highest point of the Fence, Natural Feature, thing or object;
- (ii) for a Fence atop a retaining wall, the vertical distance between the top of the retaining wall and the highest point of the Fence;
- (iii) for a Corner Sight Triangle, the vertical distance between the grade of the centerline of the abutting street and the highest point of the Fence, Natural Feature, thing or object; or
- (iv) for a Fence, Natural Feature, thing or object atop a retaining wall within a Driveway Sight Triangle, the vertical distance between the finished grade of the Driveway and the highest point of the Fence, Natural Feature, thing or object.

“**Natural Feature**” means hedges, trees, shrubs, plants and other living things and natural objects.

“**Neighbour**” means each Person that owns a Lot located within two (2) metres of any Lot Line of the Lot to which the exemption application relates.

“**Officer**” means a person as defined in the Inspection By-law, as amended.

“Owner” means the person or persons shown on the Land Registry Office record, the records of the land at the registry office, or Municipal Tax Roll, as having title to the land or responsibility for it, as well as the tenant and person or persons lawfully in possession of, or exercising control over, the property.

“Person” means and include an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate, a natural person, and “Persons” has as corresponding meaning (with the exception of the Town of Cobourg).

“Work Order” means a work order given pursuant to section 5.

“Zone” means a designated area of land use(s) shown on the Comprehensive Zoning By-law The following terms are as defined in the Comprehensive Zoning By-law, as amended:

- (i) “Corner Lot”;
- (ii) “Driveway”;
- (iii) “Exterior Side Yard”;
- (iv) “Front Lot Line”;
- (v) “Front Yard”;
- (vi) “Lot”;
- (vii) “Lot Line”;
- (viii) “Rear Lot Line”;
- (ix) “Rear Yard”;
- (x) “Side Lot Line”
- (xi) “Side Yard”;
- (xii) “Street Line”;
- (xiii) “Through Lot”;
- (xiv) “Yard”

2. Application

2.1 This By-law shall apply to all Lots within Residential, Employment, Commercial and Mixed Use Zones.

3. Fence Materials

3.1 No Owner shall permit a Fence to exist or to be constructed with materials or in a manner that may pose a hazard to humans. Without limitation, no Owner shall permit a Fence that is the following:

- a) electrified;
- b) plastic construction fencing (or snow fencing); and
- c) constructed with razor wire, barbed wire, or sharp projections

4. Height Restrictions

4.1 No Owner shall permit a Fence, Natural Feature or other thing or object on a Lot to exist at Heights exceeding the most restrictive, as applicable, of the following:

- (a) Subject to subsection 4.1 (e) , a Natural Feature within 2.0 metres of the Front Lot Line shall not exceed 0.75 metres.
- (b) Subject to subsection 4.5, a Fence within a Front Yard shall not exceed 0.75 metres.

- (c) A Fence within 2.0 metres of a Rear Lot Line or a Side Lot Line shall not exceed 1.8 metres.
- (d) Fences on Through Lots shall be deemed to be permitted as if exempted by the Director pursuant to section 10 but subject to such conditions as the Director may impose pursuant to section 11 including conditions respecting the Height of such Fences.
- (e) That part of a Fence or a Natural Feature within 1.0 metre of that part of the Lot Line between the Rear Yard of one Lot and the Front Yard of another Lot shall not exceed 1.8 metres.
- (f) In all parts of the Town, all Fences, Natural Features, things and objects within a Corner Sight Triangle or a Driveway Sight Triangle shall not exceed 0.75 metres.
- (g) A Fence between a Lot in a Residential Zone and a Lot in a Commercial, Employment or Mixed Use Zone shall not exceed 1.8 metres.

5. Work Order

- 5.1 Without limiting remedies otherwise available at law, an Officer may give to an Owner a Work Order where the Officer has reason to believe that the Owner has not complied with this By-law.
- 5.2 Where an Officer is satisfied that an Owner has failed to comply with any provision of this By-law, the Officer may make a Work Order requiring the Owner to do work to correct the contravention.
- 5.3 A Work Order shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention; and
 - (b) the work to be done and the date by which the work must be done.

6. Failure To Comply

- 6.1 Where an owner, having been served with a Work Order, fails to comply with the Work Order within the time specified, an Officer or the Town's employees or agents authorized for this purpose may, in the Officer's sole discretion, enter onto the property at a reasonable time and carry out any or all of the work described in the Work Order at the Owner's expense.

7. Recovery Of Costs

- 7.1 Where the Town, its employees or authorized agents have performed the work required to bring the property into compliance with the By-law, all expenses incurred by the Town in doing the work as well as any related fees, shall be deemed to be a debt to the Town and may be collected by action or the costs may be added to the tax roll for the property and collected in the same manner as taxes.

8. Exceptions / Exemptions

- 8.1 This By-law does not apply to a Fence that exists on the date of the passing of this By-law to the extent that, in the Director's opinion, the Fence complied with all law applicable to the Fence on the day immediately preceding the date of the passing of this By-law, and then only until such time as the Fence is, in the Director's opinion, replaced, reconstructed or substantially repaired. This exception / exemption provision shall not apply to subsection 3 and 4.1 (e) of this By-law

8.2 Despite any other provision of this By-law, this By-law does not apply to the following:

- (a) a tree that is not within a Corner Sight Triangle or a Driveway Sight Triangle;
- (b) a Fence that abuts or that is within railway lands;
- (c) a noise control barrier or device required by a federal, provincial or municipal government with jurisdiction to impose the requirement;
- (d) a Fence erected or Natural Feature planted or placed by a federal, provincial or municipal government;
- (e) a Fence or Natural Feature that complies with a municipal permit or with a site plan agreement, subdivision agreement or other development agreement to which the Town is a party;
- (f) a Fence that delineates an area lawfully used as a tennis court, golf course, baseball diamond, soccer field or football field;
- (g) a “Guard” that is defined and required by and that complies with the “Building Code” as defined in the *Building Code Act*, 1992, S.O. 1992, c. C.23, s. 1(1);
- (h) a Fence erected under a temporary fencing application, subject to the approval of the Town, related to development, construction and seasonal snow activities (snow activities from November 1 – March 31st); or
- (i) a temporary “Pool Enclosure” pursuant to By-law No. 065-2000 the Pool Enclosure By-law.

8.3 Subject to the following, the Director may exempt any Person from all or any part of this By-law:

- (a) The Person has submitted an application and such information in support of the application as the Director may require;
- (b) The Person has paid the application fee from time to time established by the Fees and Charges By-law;
- (c) The Person has consented to the disclosure of any personal information of the Person provided by the Person in relation to the Person's application for an exemption;
- (d) The Town has given no fewer than ten (10) business days' notice to each Neighbour;
- (e) The Town's notice pursuant to subsection 8.3 (d) includes the application and information submitted pursuant to subsection 8.3 (a) and advises each Neighbour that they have ten (10) business days from the effective date of notice within which to submit to the Director written representations in relation to the exemption request;
- (f) The Director considers any representations received pursuant to and within the time limited by subsection 8.3 (e); and
- (g) The Director is satisfied that the granting of the exemption would maintain the general intent and purpose of this by-law.
- (h) The Director may impose such conditions as they determine are appropriate in relation to the exemption granted.

8.4 The Director shall give notice of the Director's decision respecting an exemption pursuant to subsection 8.3 including any condition imposed pursuant to subsection 8.4 which notice shall be given to the Person submitting the exemption request pursuant to section 10 and to each Neighbour who submitted representations pursuant to and within the time limited by subsection 8.3 (d) and shall include information respecting rights of appeal pursuant to this By-law including the time limited for and applicable fee in relation to exercising a right of appeal.

8.5 An Owner and each Neighbour may appeal to the Hearing Officer pursuant to section 9 against the Director's decision respecting an exemption pursuant to subsections 8.3 and 8.4.

8.6 A decision of the Director respecting an exemption pursuant to subsections 8.3 and 8.4 that is not appealed pursuant to section 9 is final and is not subject to review including review by any Court.

9. Hearing Officer

9.1 The following applies to appeals to the Hearing Officer:

- (a) A Person's right to appeal expires if it has not been exercised in the manner prescribed in subsection 9.1 (b) before 4:30 p.m. on the tenth (10th) business day after the Director's decision pursuant to 8.3 and 8.4. is final and is not subject to review including review by any Court.
- (b) A right to appeal is exercised by:
 - (i) giving to the Director written notice of the appeal that includes the particulars of all grounds upon which the appeal is made; and
 - (ii) paying the fee prescribed by the Fees and Charges By-law.
- (c) The Person and each Neighbour who submitted representations pursuant to and within the time limited by subsection 8.3 (e) shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- (d) Where the Person fails to appear at the time and place scheduled for a hearing of the appeal, the Person's appeal shall be deemed to be dismissed and the Person shall pay to the Town an administrative fee as from time to time prescribed by the Fees and Charges By-law.
- (e) Subject to subsection 9.1 (d), the Hearing Officer shall not decide the appeal unless the Hearing Officer has given each of the Person, the Director and the Officer an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- (f) The Hearing Officer may make any decision that the Director or an Officer could have made pursuant to this By-law.
- (g) The decision of the Hearing Officer is final and not subject to review including review by any Court.
- (h) A copy of the decision of the Hearing Officer shall be provided to the Person and, as applicable, to each Neighbour who submitted representations pursuant to and within the time limited by subsection 8.3 (d).

10. Offences

- 10.1 Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33, as both may be amended from time to time.
- 10.2 No Person shall fail to comply with any provision or standard of this By-law.
- 10.3 No Person shall fail to comply with a Work Order issued pursuant to this By-law.

11. Administrative Penalties

- 11.1 The AMP System By-law, as amended, applies to each administrative penalty issued pursuant to this By-law.
- 11.2 Each Person who contravenes any provision of this By-law or fails to comply with an Order issued in accordance with this By-law shall, upon issuance of a penalty notice in accordance with the AMP System By-law, be liable to pay to the Town an administrative penalty in the amount of;
- (a) \$175 for the remainder of the first day on which the contravention occurs; and
 - (b) \$275 for each subsequent day on which the contravention continues.

12. Service

- 12.1 Service of any document, including an order, under this By-law may be given in writing in any of the following ways and is effective:
- (a) when a copy is personally delivered to the Person to whom it is addressed;
 - (b) on the third (3rd) day after a copy's sent by regular mail or registered mail to the Person's last known address;
 - (c) upon sending a copy by e-mail transmission to the Person's last known e-mail address;
 - (d) where service is unable to be done under subsections 12.1 (a), (b), or (c) notice may be given by placing a placard containing the terms of the document or order in a conspicuous place on the property to which the document or order relate and shall be deemed to be sufficient service on the Owner or Occupant.
 - (e) on the date a copy is placed on or affixed in any manner to a Person's motor vehicle

13. Severability

- 13.1 If any section, clause or provision of this By-law is for any reason 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 section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council for the Town that all remaining sections, clauses or provision of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provision thereof may have been declared invalid.

14. **General**

14.1 For the purpose of subsection 23.2(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, it is the opinion of Council that the powers delegated to the Hearing Officer and to the Director pursuant to this By-law are of a minor nature, having regard to the number of people, the size of geographic area and the time period affected by the exercise of such powers.

15. **Short Title**

15.1 This by-law may be cited as the “Fence and Sight Triangle By-Law”

That this By-law shall come into effect on the day of passing.

READ and finally passed in Open Council this 17th day of December, 2025.

“Lucas Cleveland”

Lucas Cleveland, Mayor

“Brent Larmer”

Brent Larmer, Clerk