

BY-LAW NUMBER 2012-119

OF THE

CORPORATION OF THE TOWNSHIP OF UXBRIDGE

**BEING A BY-LAW TO PRESCRIBE THE HEIGHT
AND DESCRIPTION OF LAWFUL FENCES IN THE
TOWNSHIP AND TO REQUIRE THE OWNERS OF
PRIVATELY OWNED OUTDOOR SWIMMING
POOLS TO ERECT AND MAINTAIN FENCES AND
GATES AROUND SUCH SWIMMING POOLS**

WHEREAS The Municipal Act, 2001, S.O. 2001, c. 25, as amended allows a municipality to pass by-laws with regard to structures, including fences and signs.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
TOWNSHIP OF UXBRIDGE HEREBY ENACTS A BY-LAW AS FOLLOWS:**

SHORT TITLE

This by-law may be cited as the "Fence By-law".

Section 1-Definitions

1. For the purposes of this by-law,
 - (a) "Corner Lot" shall mean 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.
 - (b) "Division Fence" shall mean a fence marking the boundary between adjoining parcels of land, not under common ownership.
 - (c) "Electrical Fence" shall mean a fence through which electricity passes.
 - (d) "Enclosed" shall mean when the property is enclosed in a way that can be relied on to prevent entry of the general public.
 - (e) "Erect" shall mean setting up, building, constructing, reconstructing and relocating and, without limiting the generality or the word, also includes:
 - (i) any preliminary physical operation, such as excavating, filling or drainage;
 - (ii) altering any existing building or structure by an addition, enlargement; extension, relocation or other structural change;
 - (iii) any work requiring a building permit; and
 - (iv) erected and erection shall have a corresponding meaning.
 - (f) "Fence" shall include but not be limited to a railing, wall, hedge, line of posts, shrubs, wire, gate, boards or other similar items, 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 privacy screen or a retaining wall.
 - (g) "Front Lot line" shall mean:

- (i) in the case of an interior lot, the line dividing the lot from the street or road;
 - (ii) in the case of a corner lot, the shorter lot line abutting a street or right-of-way shall be deemed the front lot line and the longer lot line abutting a road or right-of-way shall be deemed an exterior side lot line;
 - (iii) 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.
- (h) "Grade" shall mean the surface of the ground below a fence at each location where a structural support is imbedded in the ground.
- (i) "Invisible Safety Net" shall mean a black or dark green net made of knotted monofilament nylon mesh or other similar materials, with a 90% or greater porosity, with a spacing between the mesh not to exceed 20 millimetres and a minimum thickness of 1.7 millimetres primarily used to absorb the impact of a golf ball. The netting shall be constructed in a way to have minimal intrusive visual impact.
- (j) "Lot" shall mean a parcel or tract of land capable of being conveyed and described in a deed or other legal document which:
- (i) is a whole lot described in accordance with and is within a registered plan of subdivision, other than a registered plan of subdivision which has been deemed by the Township not to be a registered plan of subdivision under a By-law passed pursuant to Section 49 of The Planning Act, S.O., 1983, c. 1, as amended; or
 - (ii) is a legally separated parcel of land in existence on the date of passing of this By-law, and which so continues to the relevant time; or
 - (iii) has received a final and binding consent to a conveyance pursuant to the provisions of Section 49 of The Planning Act, S.O., 1983, c. 1, as amended; or
 - (iv) is the whole remnant remaining to an owner or owners after a conveyance has been made with a final and binding consent pursuant to the provisions of Section 29 of The Planning Act, S.O., 1983, c. 1, as amended, but for the purpose of this clause 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 the Township, the Region or any municipality; or, Her Majesty in the Right of Ontario, Her Majesty in the Right of Canada; or for the construction of a transmission line as defined in The Ontario Energy Board Act, R.S.O., 1980, c. 332, as amended.
- (k) "Officer" shall include a Municipal Law Enforcement Officer, Chief Building Official or designate appointed by By-law of the Township of Uxbridge, a Police Officer or an assigned individual with the responsibility for enforcing and administering this By-law.
- (l) "Ornamental Pond" shall include, but is not limited to, any body of water in or above the ground located outdoors on privately-owned property, contained in part or in whole by artificial means, in which the depth of the water at any point exceeds or is capable of exceeding 50 centimetres and is used as a decorative feature in a yard, but shall not include facilities for the purposes of providing water to livestock or for irrigation of crops which are associated with and located on land devoted to the practice of farming or naturally occurring streams, lakes, swamps or other natural bodies of water.
- (m) "Owner" shall mean lawful owner but also includes a lessee, tenant or occupant who is in care or control of a Property and also includes

all persons involved in the installation, excavation or erection of a Fence, Swimming Pool Enclosure, Privacy Screen and Invisible Safety Net.

- (n) "Person" shall mean any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.
- (o) "Privately-Owned Outdoor Swimming Pool" shall include, but is not limited to permanent pools, temporary pools, hot tubs, whirlpools, jaccuzzis, spas, any other similar device, or any body of water in or above the ground located outdoors on privately-owned property, contained in part or in whole by artificial means, in which the depth of the water at any point exceeds or is capable of exceeding 50 centimetres and is used or is capable of being used for swimming, wading or bathing.
- (p) "Privacy Screen" shall mean a visual barrier used to shield any part of a yard from view from any adjacent parcel of land or any street.
- (q) "Rear Lot Line" shall mean the farthest lot line opposite the front lot line.
- (r) "Self-closing device" shall mean a mechanical device or spring which returns a swimming pool enclosure gate to its closed position within thirty (30) seconds after it has been opened.
- (s) "Self-latching device" shall mean a mechanical device or latch which is engaged each time the swimming pool enclosure gate is secured to its closed position; which will not allow the swimming pool enclosure gate to be re-opened by pushing or pulling, and which will ensure the swimming pool enclosure gate remains closed until unlatched by either lifting or turning the device itself directly or by a key.
- (t) "Side Lot Line" shall mean a lot line other than a front or rear lot line.
- (u) "Sight Triangle" shall mean an area of private land on a corner lot, which area is to be determined by measuring from the point of intersection of the street lines, 9 metres in all other zones along each such 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 at the required distance along the street lines is the "sight triangle".
- (v) "State of good repair" shall mean:
 - (i) the fence, swimming pool enclosure, privacy screen, or invisible safety net is complete and in a structurally sound condition and plumb and securely anchored;
 - (ii) protected by weather-resistant materials;
 - (iii) fence, swimming pool enclosure, privacy screen, or invisible safety net components are not broken, rusted, rotten or in a hazardous condition;
 - (iv) the self-closing, self-latching devices placed at the top and on the inside of the gate and are not broken, rusted, rotten or in a hazardous condition;
 - (v) all stained or painted fences, swimming pool enclosures, privacy screens, or invisible safety net are maintained free of peeling paint or stain; and

- (vi) that the fence, swimming pool enclosure, privacy screen, or invisible safety net does not present an unsightly appearance to abutting land or to the neighbourhood.
- (w) "Street" shall mean a highway as defined by The Municipal Act, R.S.O., 1980, c.302, as amended and The Highway Traffic Act R.S.O. 1990, CHAPTER H.8, as amended.
- (x) "Street Line" shall mean the limits of the street allowance which is the dividing line between a lot or block and a street or road.
- (y) "Swimming Pool Enclosure" shall mean a fence, wall or other structure including doors and gates, surrounding a privately-owned outdoor swimming pool.
- (z) "Swimming Pool Enclosure Permit" shall mean a permit issued under this By-law.
- (aa) "Township" shall mean The Corporation of the Township of Uxbridge.
- (bb) "Yard" shall mean an open, uncovered space on a lot appurtenant to a building and unoccupied by buildings or structures and:
 - (i) "Front Yard" shall mean 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;
 - (ii) "Interior Side Yard" shall mean a side yard other than an exterior side yard;
 - (iii) "Exterior Side Yard" shall mean a side yard immediately adjoining a public street;
 - (iv) "Rear Yard" shall mean a yard extending across the full width of the lot between the rear lot line 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;
 - (v) "Side Yard" shall mean 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.

Section 2 - Fencing of Privately- Owned Outdoor Swimming Pools

- 2.1 No person shall excavate for or erect, or cause to be excavated for or erected, a privately-owned outdoor swimming pool without first obtaining a swimming pool enclosure permit in connection therewith from the Township.
- 2.2 A swimming pool enclosure permit shall not be issued by the Township, unless the swimming pool enclosure application complies with all relevant provisions of this By-law, any other relevant By-laws and legislation, any other approval authorities, and the Township may impose any conditions deemed appropriate for the permit.
- 2.3 Upon issuance of a swimming pool enclosure permit, all work on the enclosure and final swimming pool enclosure inspection shall be completed within six (6) months failing which, that permit shall expire and a new permit shall be obtained for any future work.
- 2.4 Owners shall not alter the natural grading and drainage swales of their property. The responsibility is solely that of the property owner to assess.

No site alteration shall take place within 60 centimetres of any property line.

Section 3 - Swimming Pool Enclosure

- 3.1 Every owner of a privately-owned outdoor swimming pool shall erect and maintain, or cause to be erected and maintained, a swimming pool enclosure completely around the privately-owned outdoor swimming pool, which enclosure:
- (a) Shall extend from the ground to a height, measured on the outside of the enclosure, of not less than 1.2 metres above grade, including gates therein;
 - (b) Shall be constructed of:
 - (i) chain-link not greater than 40 millimetres diamond mesh, and galvanized steel wire not less than 2.680 millimetres diameter (11 gauge); or
 - (ii) vertical board on board attached to supporting members, all of which shall be arranged in a manner so as to not facilitate climbing from the exterior; or
 - (iii) wrought iron fencing with at least 1 metre between horizontal members and with no greater than 10 centimetres of spacing between vertical bars; and
 - (iv) vertical structural posts encased in a minimum of 50 millimetres of concrete from grade to a minimum of 60 centimetres below grade; such posts to be spaced not more than 3 metres apart; and
 - (v) a combination thereof as provided in this by-law or such other material design or construction as will provide an equivalent degree of safety and which is approved in writing by the issuance of a swimming pool enclosure permit.
 - (c) No entrance to the building shall be located within the pool enclosure unless the entrance is set back a minimum distance of 1.2 metres from the water's edge of the privately-owned outdoor swimming pool.
 - (d) When a wall of a building forms part of such pool enclosure, the principal entrance to the building shall not be located within the pool enclosure.
 - (e) May incorporate one or more gates of equivalent material and construction as the swimming pool enclosure and every such gate shall not be less than 1.2 metres in height, be supported on substantial hinges, be self-closing and equipped with self-latching devices placed on the inside of the gate at or near the top; such gates shall be closed at all times when a responsible person is not present and supervising the privately-owned outdoor swimming pool.
 - (f) Shall be located not less than 1.2 metres from the water's edge and in the case of an above ground systems pool with a deck and a fence forming part of the system, the water's edge shall be no closer than 50 centimetres to the fence portion of the system.
 - (g) Shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing.
 - (h) No person shall place water in or cause or permit water to be placed in a privately-owned outdoor swimming pool or allow water to remain therein, until such time as the swimming pool enclosure as prescribed by this by-law has been erected completely around the swimming pool.

- (i) Where by reason of the nature of construction of a privately-owned outdoor swimming pool, it is necessary to fill the privately-owned outdoor swimming pool during the construction of the privately-owned outdoor swimming pool, the owner shall erect and maintain a temporary fence not less than 1.2 metres in height and not less than 1.2 metres from the waters edge, completely around the privately-owned outdoor swimming pool until construction is completed and upon completion of such construction, the owner shall immediately replace the temporary fence with a permanent fence in accordance with the provisions of this by-law.
- (j) Where by reason of the nature of construction of a privately-owned outdoor swimming pool, it is necessary to excavate a hole in which the depth of the hole at any point exceeds or is capable of exceeding 50 centimetres during the construction of the privately-owned outdoor swimming pool, the owner shall erect and maintain a temporary fence not less than 1.2 metres in height and not less than 1.2 metres from the holes edge, completely around the privately-owned outdoor swimming pool until construction is completed and upon completion of such construction, the owner shall immediately replace the temporary fence with a permanent fence in accordance with the provisions of this by-law.
- (k) The fencing provisions of this By-law relating to privately-owned outdoor swimming pools shall not apply if the outside wall of the privately-owned outdoor swimming pool is elevated to a height of at least 1.2 metres and every entrance to the elevated pool is protected by a gate at least 1.2 metres in height and having self-closing, self-latching devices placed at the top and on the inside of the gate.

Section 4 - Ornamental Ponds

- 4.1 Every owner of an ornamental pond which exceeds 50 centimetres in depth or is capable of exceeding 50 centimetres in depth shall comply with the provisions of Section 3.1.

Section 5 – Fences and Swimming Pool Enclosures on Residential Property

- 5.1 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 2 metres above grade.
- 5.2 No person shall erect or cause to be erected in a front yard on any residential property a fence which is higher than 1.2 metres above grade.
- 5.3 Section 5.1 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;
 - (c) Located on land abutting land used for industrial or commercial purposes, railway right of way or utility installations;
 - (d) An invisible safety net, as approved in writing by the Township to determine structural stability, solely located on the owner's property, on any property abutting or located within 25 metres of a golf course, constructed for the purposes of the personal protection of persons and/or property.

- 5.4 Where a rear yard of a lot is adjacent to the front yard of another lot, Section 5.1 shall apply.
- 5.5 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 2 metres above grade.
- 5.6 No person shall erect, have, permit or maintain on any residential property a fence which is not in a good state of repair or has an inferior appearance or quality on that side of the fence which faces the adjoining property.
- 5.7 Fences shall be constructed of structurally sound material and erected in a workmanlike manner.

Section 6 - Privacy Screen

- 6.1 No person shall erect, or cause to be erected, a privacy screen in a front yard.
- 6.2 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 60 centimetres from any side or rear lot line;
 - (b) the privacy screen is no more than 2.5 metres above grade; and
 - (c) the collective total of all the privacy screens within the property is no more than 6 metres in length.
- 6.3 No person shall erect, have, permit or maintain on any residential property a privacy screen which is not in a good state of repair or has an inferior appearance or quality on that side of the fence which faces the adjoining property.
- 6.4 Privacy Screens shall be constructed of structurally sound material and erected in a workmanlike manner.

Section 7 - Fences in Zones Other Than Residential

- 7.1 No person shall erect or cause to be erected in a side or rear property in any zone, except a residential zone, a fence which is higher than 2 metres or not constructed of the following materials:
- (a) chain-link and galvanized steel wire; or
 - (b) vertical board on board attached to supporting members, all of which shall be arranged in a manner so as to not facilitate climbing from the exterior; or
 - (c) wrought iron fencing with no greater than 10 centimetres of spacing between vertical bars; and
 - (d) vertical structural posts encased in a minimum of 50 millimetres of concrete from grade to a minimum of 60 centimetres below grade; such posts to be spaced not more than 3 metres apart; and
 - (e) any combination thereof without first having received approval from the Council of the Corporation of the Township of Uxbridge.

7.2 No person shall erect or cause to be erected in a front yard in any zone, except a residential zone, a fence which is higher than 1.2 metres or not constructed of the following materials:

- (a) chain-link and galvanized steel wire; or
- (b) vertical board on board attached to supporting members, all of which shall be arranged in a manner so as to not facilitate climbing from the exterior; or
- (c) wrought iron fencing with no greater than 10 centimetres of spacing between vertical bars; and
- (d) vertical structural posts encased in a minimum of 50 millimetres of concrete from grade to a minimum of 60 centimetres below grade; such posts to be spaced not more than 3 metres apart; and
- (e) any combination thereof without first having received approval from the Council of the Corporation of the Township of Uxbridge.

Section 8 - Daylighting Triangles

8.1 No person shall erect or cause to be erected any fence within a daylighting triangle or in any location which obstructs the vision of motorists or pedestrians either when leaving a street or entering a street from another street or driveway or of any traffic sign or control device or which for any other reason constitutes a hazard.

Section 9 - Public Lands

9.1 No owner shall alter an existing division fence which separates lands owned by, or under the control of, or managed by the Township, by lease, agreement or otherwise, without approval in writing from the Township.

Section 10 - Maintenance

10.1 The owner of the land on which a fence, swimming pool enclosure, privacy screen or invisible safety net is erected shall maintain such fence, swimming pool enclosure, privacy screen or invisible safety net in a state of good repair.

Section 11 - Exceptions

11.1 The fence, swimming pool enclosure, privacy screen or invisible safety net height and setback provisions of this By-law shall not apply to fence, swimming pool enclosure, privacy screen or invisible safety nets lawfully erected prior to the passing of this By-law. Notwithstanding the standards and requirements of this By-law, where a fence, swimming pool enclosure, privacy screen or invisible safety net exists on the date this By-law comes into force, and such fence, swimming pool enclosure, privacy screen or invisible safety net remains in good repair, that same fence, swimming pool enclosure, privacy screen or invisible safety net need not comply with this by-law provided that the fence, swimming pool enclosure, privacy screen or invisible safety net did comply with the standards in force pursuant to any by-law governing the erection of fence, swimming pool enclosure, privacy screen or invisible safety net at the time the same fence, swimming pool enclosure, privacy screen or invisible safety net was erected, and continues to so comply with those previous standards. Nothing in this section shall permit the replacement or substantial repair of a fence, swimming pool enclosure, privacy screen or invisible safety net contrary to the provisions of this By-law.

- 11.2 Notwithstanding any other provision of this By-law to the contrary, privately-owned outdoor swimming pools known as "hot tubs", "whirlpools", and "spa's", need not comply with Sections 3 of this By-law provided that a cover, capable of holding 90.72kg is provided by the Owner and is not less than 5 centimetres thick constructed of a durable material that is permanently fixed and secured to the structure to prevent access when the structure is not in use.
- 11.3 The provisions of this By-law shall not apply to acoustical fences or other similar fences which may be required by the Ministry of the Environment or Ministry of Transportation from time to time.

Section 13 - Administration and Enforcement

- 13.1 An Officer shall be responsible for the administration and enforcement of this By-law.
- 13.2 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the Township or by any governmental authority having jurisdiction to make such restrictions or regulations.
- 13.3 If there is a conflict between a provision in this By-law and a provision of any other Municipal By-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public shall apply.

Section 14 – Penalty

- 14.1 Every person who contravenes any of the provisions 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, c.P.33, as amended.

Section 15 – Severability

- 15.1 In the event any part or provision of this by-law is held invalid, the remainder of the by-law shall continue in force.

Section 16 - Repeal

- 16.1 That By-law No. 1986-34, as amended, be hereby repealed.

READ a FIRST, SECOND and THIRD time and finally passed this 10th day of September, 2012.


GERRILYNN O'CONNOR
MAYOR


DEBBIE LEROUX
CLERK