

**The Corporation of the
Township of South-West Oxford**

By-law 62-2019

**A By-law to regulate fences within the
Township of South-West Oxford**

WHEREAS pursuant to Section 11(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, the municipality may enact by-laws to regulate fences;

AND WHEREAS the Council of the Township of South-West Oxford deems it expedient and in the best interests of its residents to prescribe requirements with respect to the heights, locations and description of lawful fences;

AND WHEREAS the Council of the Township of South-West Oxford deems it expedient and in the best interests of its ratepayers to regulate fences regarding privately owned outdoor swimming pools;

AND WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended authorizes the Township of South-West Oxford to enact by-laws providing that a person who contravenes a by-law of the Township of South-West Oxford passed under that Act is guilty of an offence;

AND WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended further authorizes the Township of South-West Oxford, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

THEREFORE the Council of the Township of South-West Oxford enacts as follows:

1. Short Title

This By-Law to be cited as the “Fence By-Law.”

2. Definitions

“**Boundary Fence**” means any fence erected within 50 mm (2 inches) of a property line.

“Chief Building Official” means the Chief Building Official of the Township.

“Front Yard” has the same meaning as “yard, front” as defined in the Township Zoning By-Law.

“Exterior Side Yard” has the same meaning as “yard, side, exterior” as defined in the Township’s Zoning By-Law.

“Fence” means any structure, including but not limited to a wall (other than a wall of a building), line of posts, railing, privacy screen, or gate, and any part thereof, which is used to enclose, separate or divide, in whole or in part, any parcel of land or part thereof from any other parcel of land or part thereof.

“Grade Level” means the average level of proposed or finished ground adjoining a building at all exterior walls.

“Ground Level” means the level of the surface of the ground within 3 feet of the base of a fence on the highest side of the fence.

“Highway” means a highway as defined in Section 1(1) and 26 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

“Intersection” means the area embraced within the prolongation or connection of the lateral boundary lines of the roadway of two or more roads which join one another at an angle, whether or not one highway crosses the other.

“Officer” means a By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed by the Council of the Township of South-West Oxford.

“Pool Enclosure” means a fence, including doors and gates, enclosing a privately-owned outdoor swimming pool.

“Privately-owned outdoor swimming pool” means any body of water located or to be located outdoors on privately owned property, contained by artificial means and of a depth at any point in excess of one (1) foot, which is intended or used for the purpose of swimming, diving or bathing;

And includes:

- (i) Manufactured swimming pools, both above ground and in ground; and
- (ii) Custom built pools.

But does not include

- (i) Any container which is placed on ground at grade level and has no depth exceeding 600 mm (24 inches).
- (ii) an irrigation pond on farms used for watering livestock or for irrigation;
- (iii) a naturally formed depression in the ground surface;

- (iv) a garden or fish pond used as a landscaping feature which is not capable, at any point 2.0 meters from an edge, of holding water in excess of 600 mm (24 inches) in depth;
- (v) a hot tub or spa with a locked cover; and,
- (vi) a public swimming pool as defined and regulated by the Ontario Building Code.

“Rear Yard” has the same meaning as “yard, rear” as defined in the Township Zoning By-Law.

“Side Yard” has the same meaning as “yard, side” as defined in the Township of Zoning By-Law.

“Sight Triangle” shall be in accordance with Section 6: General Provisions of the Township’s Zoning By-law and means the triangular space formed by the street lines and a line drawn from a point on one street line to a point in the other street line, each such point being 9.0 m (29.5 ft), measured along the street line from the point of intersection of the street lines, no building, structure, planting or vehicle shall be located in such a manner as to impede vision between a height of 0.6 m (2 ft) and 3.0 m (9.8 ft) above the centreline grade of the intersecting streets. 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 lines.

“Township” means the Corporation of the Township of South-West Oxford.

“Township Zoning By-Law” means the Corporation of the Township of South-West Oxford Zoning By-Law No. 25-98.

3. Application

3.1 The provisions contained herein shall apply to all lands within the limits of the Township, except where specified otherwise in this By-Law.

3.2 The provisions of this By-Law shall not apply to any fence, boundary fence, enclosure, or pool enclosure constructed by, or under the direction of, the Government of Canada, the Government of Ontario, the County of Oxford, or the Township.

3.3 In the event of a conflict between the provisions of this By-Law and the Township Zoning By-Law, the provisions of the Township Zoning By-Law shall prevail. To the extent of a conflict between this By-Law and any other Township by-law in effect, the provisions that establish the higher standard of protection of health, safety and welfare of the public shall prevail.

3.4 Nothing in this By-Law constitutes an exemption from the requirements of any other by-law in effect or applicable legislation,

3.5 Except as provided in section 3.6 of this By-Law, the owner(s) of any fence in existence at the date of the final passing of this by-law shall not be deemed in violation of the provisions of this By-Law.

3.6 Section 7 of this By-Law shall apply to all existing fences enclosing swimming pools.

4. General Provisions

4.1. The provisions of this By-Law are to be enforced by an Officer.

4.2. With the exception of Section 7 - Swimming Pool Fence Requirements, of this By-Law, this By-Law shall not apply to agricultural uses.

4.3. No person shall erect, construct or maintain on or upon any *highway* in the Township any fence, pole, post, pillar or wire or other construction.

4.4. No person shall construct a gate within a boundary fence without the written consent of the owner of the neighbouring property.

4.5. No fence of a height which is greater than 0.762 metres (30 inches) above the grade level of any adjacent roadway shall be erected or caused to be erected or maintained or caused to be maintained within any sight triangles.

4.6. No fence of a height which is greater than 1.22 metres (48 inches) above the adjoining ground level shall be erected or cause to be erected or maintained or cause to be maintained in any front yard or exterior side yard.

4.7. No fence of a height which is greater than 2.13 metres (84 inches) above the adjoining ground level shall be erected or cause to be erected or maintained or cause to be maintained in any rear yard or interior side yard.

4.8. No fence in any front yard shall be erected or cause to be erected or maintained or cause to be maintained within 3 metres of a roadway.

4.9. Notwithstanding the provisions of sections 4.4, 4.5 and 4.6 a fence may have a greater height if constructed in accordance with a registered agreement or agreements entered into with the Township pursuant to sections 41, 51, or 53 of the *Planning Act* R.S.O.1990 c. P13 (*Site Plan, Subdivision, Severance*). as amended, or any plan approved in accordance with requirements of the *Planning Act*.

- 4.10 No fence, boundary fence, or enclosure shall be located along a property line adjacent to lands owned by the Township without written permission from the Township and in agreement with the property owner, and any costs of any fence along township property may be accepted by Township Council, but will not exceed 50 percent of the cost of a residential chain link fence of 1.2m in height.

5. Fence Location (Prohibition of Sandwich Fencing)

- 5.1. No fence may be located closer than 0.6 metres (2 feet) from any other fence.
- 5.2. Except for a boundary fence, no fence shall be closer to any property line than the minimum accessory building setback of that particular zone within the Township Zoning By-Law.

6. Fence Materials and Maintenance

- 6.1. Except as permitted by section 6.2, no fence shall be constructed of sheet metal or corrugated metal, electric fencing or barbed/razor/page wire or any other type of wire.
- 6.2 Barbed wire fencing may be permitted within the following limits;
- (a) on the top of a fence on a lot used for commercial or industrial purposes, provided that the barbed wire is a minimum of 2.0 metres above the adjacent finished ground and projects inwards towards the area enclosed by the fence; or
 - (b) on the top of a fence erected for security reasons enclosing a facility owned or operated by any level of government or licensed distribution company, provided that the barbed wire is a minimum of 2.0 metres above the adjacent finished ground and projects inwards towards the area enclosed by the fence.

7. Swimming Pool Enclosure Requirements

- 7.1 No person shall construct or cause to be constructed a privately-owned outdoor swimming pool without obtaining a Pool Permit from the Township.
- 7.2 No person shall allow a pool enclosure, to be removed, destroyed, dilapidated or become in a state where it does not perform its intended purpose.
- 7.3 No person shall place water in a pool or allow water to remain there unless a pool enclosure, meeting the requirements of this By-law, has been erected to the satisfaction of the Township.
- 7.4 The Owner of a privately-owned outdoor swimming pool shall erect and maintain the required pool enclosure in a manner which surrounds the entire swimming pool area and is sufficient to make such body of water not readily accessible to

small children. Without limit to the foregoing requirement, the pool enclosure shall comply with the following:

- (a) The pool enclosure shall be a minimum 1.2 metres (4 feet) in height measured from anywhere at the grade of the bottom of the pool enclosure vertically to the top. Notwithstanding the minimum height requirement specified, no pool enclosure shall be erected in contravention of the Township Zoning By-Law.
- (b) There shall be no opening greater than 10 cm (4 inches).
- (c) The enclosure shall be constructed of such material and in such a manner as to not facilitate climbing of the pool enclosure. If the pool enclosure is constructed of lattice or chain link, then the openings in the material shall not be greater than 1.5 inches by 1.5 inches.
- (d) All fences or pool enclosures required in this By-Law shall be constructed in a manner such that no portion of the fence is closer than 1.5 metres (5 feet) to the edge of the swimming pool.
- (e) Any opening in the pool enclosure, provided for passage through the enclosure shall be protected by a gate, and each gate shall be equipped with proper latches and hinges with self-closing devices, such that when the pool is not in use, the gates shall close and latch automatically after each use.

Gates for pool enclosures shall be constructed in a manner that meets the requirements for a pool enclosure as set out in this By-law.
- (f) Gates for pool enclosures shall be supported on substantial hinges and be self-closing and equipped with a locking device and with a self-latching device placed at the top and on the inside of the gate.
- (g) A gate for a pool enclosure shall be kept closed and latched at all times, unless the gate is being entered or exited.
- (h) Notwithstanding the provisions of this By-law, where a privately-owned outdoor swimming pool is above ground, is 1.2 metres (4 feet) or more in height from the finished grade around all walls of the swimming pool, and entrance to the pool is by a ladder or steps, only the ladder or steps must be enclosed, unless any portion or portions of pool equipment, the pool wall or the finished grade is climbable, in which case, this portion or these portions must be enclosed as well.

8. Exemption

- 8.1 A requirement of this By-law does not apply to a fence that has been granted an exemption by Resolution of the Council of the Township of South-West Oxford, and such fence shall be deemed to be in compliance with this By-law as long as the exemption remains valid.
- 8.2 The exemption provided by Council is limited to the specific requirement or requirements from which a fence is exempted by the Council resolution, and is subject to any attached terms and conditions imposed by the Township.
- 8.3 A By-law exemption request fee shall be payable as set out in the Township of South-West Oxford Fees and Charges By-law.

9. Enforcement

- 9.1 Any person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act R.S.O. 1990 c.P.33, as may be amended or replaced.
- 9.2 If an Officer is satisfied that a contravention of this By-Law has occurred, the Officer may make an order requiring the person who contravened the By-Law or who caused or permitted the contravention, or the owner or occupant of the lot on which the contravention occurred, to discontinue the contravening activity.
- 9.3 If an Officer is satisfied that a contravention of this By-Law has occurred, the Officer may make an order requiring the person who contravened the By-Law or who caused or permitted the contravention, or the owner or occupant of the lot on which the contravention occurred, to do work to correct the contravention.
- 9.4 Where anything required or directed by an Officer to be done in accordance with this By-Law is not done, an Officer may upon such notice as the Officer deems suitable, do such thing at the expense of the person required to do it, and in so doing may charge an administration fee as outlined within the Township's current Rates and Fees By-law as a continued non-compliance inspection fee. Both the expense and fee may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.
- 9.5 Where the municipality proceeds pursuant to section 8.4 of this By-Law, an Officer and/or any person under the Officer's direction, may enter onto the land and, with the appropriate equipment as required, bring the property into compliance with this By-Law.
- 9.6 An Officer may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) this By-Law;
- (b) a direction or order made under this By-Law; or
- (c) a prohibition order made under s. 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

9.7 An Officer may, for the purposes of the inspection under subsection 8.6:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information in writing or otherwise as required by the Officer from any person concerning a matter related to the inspection; or
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

9.8 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended where the Officer has been prevented or is likely to be prevented from carrying out an inspection under subsections 8.5 and 8.6.

10. Effective Date

10.0 This By-law shall come into force and take effect on the day of the final passing thereof.

11. Severability

11.0 If a court of competent jurisdiction declares any section or part of a section of this By-Law to be invalid, the remainder of this By-Law shall continue in force unless the court makes an order to the contrary.

12. Repeal By-law

12.0 That By-laws 23-76, 46-99 and 41-2002 of the Township of South-West Oxford be repealed.

Read a First and Second time this 13th day of August, 2019.

Read a Third time and Finally Passed this 13th day of August, 2019.

**Mayor
David Mayberry**

**Clerk
Julie Forth**

**The Corporation of the
Township of South-West Oxford**

By-law No. 62-2019

PART 1 PROVINCIAL OFFENCES ACT

TITLE: FENCE BY-LAW

COLUMN 1	COLUMN 2	COLUMN 3
SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1. Construct or use a Pool without a permit.	7.1	\$200
2. Place water in a pool without the prescribed fence or gates.	7.3	\$200
3. Fail to maintain pool enclosure.	7.2	\$200

Note: the general penalty provision for the offences listed above is Section 9.1 of By-Law 62-2019, a certified copy of which has been filed.