

By-law Number 25-20

The Corporation of the Township of Clearview

Being a By-law to provide uniform standards for the construction of fences and pool enclosures within the Township of Clearview

(Fence and Pool Enclosure By-law)

Whereas section 11 (3) (7) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, (the "Municipal Act") authorizes a municipality to pass by-laws respecting fences;

And Whereas section 8 (3) of the Municipal Act authorizes a municipality to regulate or prohibit matters pertaining to fences and as a part of that power, to provide for a system of approvals and to impose conditions as requirements of obtaining, continuing to hold or renewing the approval;

And Whereas section 11(2) (6) of the Municipal Act authorizes a municipality to regulate matters related to health, safety and wellbeing of the inhabitants of the municipality;

And Whereas section 446 of the Municipal Act authorizes a municipality, under a by-law, to direct or require a person to do a matter or thing and the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing the matter or thing from the person by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

And Whereas section 425 of the Municipal Act authorizes a municipality to pass a by-law providing that a person who contravenes a by-law of the municipality is guilty of an offence;

And Whereas section 429 of the Municipal Act authorizes a municipality to establish a system of fines for the offences under a by-law;

And Whereas the Council of the Corporation of the Township of Clearview deems it necessary and desirable to establish a by-law for the purpose of providing uniform standards for the construction and maintenance of fences and pool enclosures within the Township;

Now Therefore the Council of the Corporation of the Township of Clearview hereby enacts as follows:

1. Definitions

1.1 For the purpose of this by-law the following definitions shall apply:

"Building" means a structure occupying an area consisting of a wall, roof and floor or any of them or a structural system serving the function thereof.

"By-law Enforcement Officer" means a person appointed by the Municipality to enforce the by-laws of the Corporation of the Township of Clearview.

"Chief Building Official" means the Chief Building Official as appointed, on behalf of the Corporation of the Township of Clearview, and their designate.

"Corner Lot" means a lot situated at the intersection of two or more streets provided that the angle of intersection of such streets is not more than 135 degrees.

"Council" means the Council of the Corporation of the Township of Clearview.

"Driveway" means that portion of a lot exclusively used for the parking of motor vehicles and includes, without limiting the foregoing, the entrances, the parking and queuing aisles, the parking spaces, delivery and loading spaces, but shall not include any part of a street, highway or private road.

"Driveway Visibility Triangle" means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and the street, land or sidewalk, whichever is closest to the lateral limit of the driveway, or the projections thereof, and a straight line connecting them 3.0 metres (9.8 feet) from their point of intersection along a rear, side or exterior lot line.

"Erect" means to build, construct, reconstruct, alter or relocate.

"Exterior Side Yard" means the yard of a lot located between a front yard and a rear yard commencing at an exterior side lot line and extending to the building and is adjacent to a street.

"Fence" means a protective, enclosing, or visual barrier of posts, wire, boards, rails, pickets, pilings, wood, metal, fiberglass, plastics, masonry, or similar materials or any combination thereof, and includes a wall or partition that is not an integral part of a building, but does not include a trellis or arbour, dividing two or more lot lines which marks or substantially marks the boundary of a property and includes any hedge or grouping of shrubs used for the same purpose.

"Fence Viewer" means a fence viewer appointed by the Council of the Corporation of the Township of Clearview pursuant to the Line Fences Act.

"Front Yard" means a yard extending across the full width of the lot between the front lot line and the nearest wall of the building on the lot.

"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.

"Hedge" means a fence formed by a row of closely planted shrubs or bushes.

"Height" means the distance measured from the effective ground level where the fence posts are embedded to the top of the said fence posts, provided that where a fence is located on top of a retaining wall, "height" means the vertical distance measured between the top of the retaining wall and the highest point of the fence or posts.

"Legal non-conforming" means a fence that is not recognized in this By-law but which lawfully existed on the day the previous Fence By-law was passed (March 19th, 2003).

"Lot" means a parcel of land to which title is capable of being legally conveyed, subject to the provisions of the Planning Act, as amended, and includes any of its part which are subject to a right-of-way or easement.

"Lot Line" means the line marking the legal boundary of a lot.

"Municipal Act" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced.

"Officer" means a By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed or authorized by Council of the Corporation of the Township of Clearview, to enforce this By-law and/or any "provincial offences officer" as defined in the Provincial Offences Act.

"Owner" means the registered owner of a property, a lessee, tenant, mortgage in possession, or person otherwise in charge of any property, acting as the authorized agent of the owner.

"Person" means an individual, firm, corporation, association, partnership, private club, incorporate company, agent or trustee and the heirs, executors, or other legal representatives of a person to who the context can apply according to the By-law.

"Pool" means an artificial body of water in which the container is constructed from manufactured materials, and is located outdoors on privately owned property in which the depth of the water at any point can exceed 0.8 metres or 2.6 feet and is primarily intended for bathing, swimming, and diving, and shall include any accessory deck or support structure, but does not include a natural, dug,

constructed, or damned pond that is used for aesthetic, landscape, storm water management, or agricultural purposes.

"Pool Enclosure" means a fence, wall, lockable lid or other structure or thing, including gates and doors which surrounds the perimeter of a pool which would discourage the entry of a person into the enclosed area.

"Pool Permit" means a written permit issued by the Township of Clearview pursuant to this by-law authorizing the erection, construction, or placing of a pool and pool enclosure.

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

"Setback" means the distance between the lot line and the nearest main wall of any building and extending the full width or length of the lot.

"Side Yard" means a yard extending from the front yard to the rear yard of a lot between a side lot line and the nearest wall of any building or structure on the lot.

"Sight Triangle" means a triangular area formed within a corner lot of the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them of no less than 6 metres (19.69 feet) from their point of intersection.

"Township" means the Corporation of the Township of Clearview.

"Zoning By-law" means any by-law administered by the Township pursuant to section 34 of the Planning Act, or a predecessor or successor thereof, as may be amended from time to time.

2. General Provisions

- 2.1 The provisions of this by-law applies to all lands within the Township of Clearview.
- 2.2 All fences and pool enclosures shall be maintained in a good state of repair and in safe condition.

3. Administration

- 3.1 This By-law shall be administered by the Chief Building Official, Building Inspectors and By-law Enforcement Officers of the Township or such other person(s) as Council may, by by-law, appoint and be considered Inspectors under the terms of this by-law.

4. Fence Types and Height

Residential

- 4.1 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a lot used for residential purposes except in accordance with the following regulations:
- a) A fence erected within a rear or side yard shall not exceed a height of 2.29 metres (7.5 feet).
 - b) A fence erected within a driveway visibility triangle shall not exceed a height of:
 - i. 2.29 metres (7.5 feet) when the fence is located along the inner boundary of the driveway visibility triangle; or,
 - ii. 1.0 metres (3.3 feet) when the fence is located along the outer boundaries of the driveway visibility triangle.
 - c) A fence erected within a front yard shall not exceed a height of 1.0 metres (3.3. feet).

Non-Residential

- 4.2 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained, a fence to enclose land used as salvage yard, or for commercial or industrial purposes as defined in the Zoning By-law provided that such fence:
- a) Does not exceed a height of 3.0 metres (9.8 feet) in any front yard, side yard or rear yard; and,
 - b) Maintain a minimum setback of 3.0 metres (9.8 feet) from the front lot line.

Legal non-conforming

- 4.3 Nothing in this By-law shall prevent the alteration, strengthening or restoration of any legal non-conforming fence to a safe condition provided that:
- a) Major alterations including the length or height of the fence, repairs or replacement of any portion of the fence is not required.
- 4.4 Nothing in this By-law shall prevent the reconstruction of any legal non-conforming fence damaged by forces beyond the control of the owner provided that:
- a) The fence shall only be reconstructed to the extent of its pre-damaged state; and,

- b) The fence shall only be reconstructed to the extent of its pre-damaged dimensions and height.

Calculation of Height

- 4.5 The height of a fence at any given point shall be measured from the grade at the base of the fence, exclusive of any artificial embankment, to the maximum heights provided under Section 4 for residential and non-residential fences.

5. Restricted Fence Materials

- 5.1 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained any fence comprised of sheet metal or corrugated metal unless edges are properly finished, or any material of a nature which could be injurious to the public in the construction or use of a fence, or materials used to provide temporary fencing i.e. snow fence, safety barriers, etc.

Barbed Wire/Razor Wire

- 5.2 No person shall have, erect, construct maintain or permit to be erected, constructed or maintained any barbed wire/razor wire fence, except in the following circumstances:
 - a) On a fence erected on land used for agricultural purposes for the keeping of livestock;
 - b) A development agreement authorized under the Planning Act is in place allowing the use of a barbed wire fence based on the use of the property.

Electric Fences

- 5.3 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained any fence equipped with a device for transmitting an electric current thereon or there through, except on agricultural land used for the purpose of keeping livestock provided that the maximum electrical current does not exceed 120 volts at .04 amps and complies with all other applicable legislation, or approved invisible fencing running under the ground used for the purpose to contain household pets.

Other Materials

- 5.4 No person shall have, erect, construct, maintain or permit to be erected, constructed or maintain any fence with materials that are not commonly used for fence construction or any other materials that would be deemed unsightly by a reasonable person i.e. pallets, doors, plywood, etc.

6. Fence Exemptions

Agreements

- 6.1 Notwithstanding any other provisions herein, a fence which is constructed as required in a registered agreement or agreements entered into with the Corporation of the Township of Clearview pursuant to Sections 41 or 51 of the Planning Act, as amended, or any plans approved by the Township in accordance with those sections shall be deemed not to contravene the provisions of this by-law.

Vegetation

- 6.2 Large hedges or a line of trees acting as a screen or fence within a side yard or rear yard that do not cause any visual obstruction or persons or vehicles while entering or exiting a driveway or travelling along a street, lane or sidewalk, shall be exempt from the provisions of this by-law.

7. Work Order

- 7.1 Where the By-law Enforcement Officer or Inspector has reasonable grounds to believe that a contravention of this by-law has occurred, the Officer or Inspector may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
- 7.2 An order under this by-law shall set out:
- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
 - b) the work to be done and the date by which the work must be done.
- 7.3 An order under this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.

8. Remedial Action

- 8.1 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.

- 8.2 The costs outlined in this section of this by-law shall include interest calculated at a rate of 15 per cent annually when added to the tax roll, 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. Pool Enclosures

- 9.1 No person shall install, maintain or place water in a pool in the Township of Clearview unless pool enclosure measures are in place.
- 9.2 No person shall install or erect or permit the installation or erection of a pool in the Township without having obtained a Pool Permit.

Application for Permit

- 9.3 To obtain a pool enclosure permit, an applicant shall file an application and any supporting material, on forms prescribed by the Chief Building Official, and pay the permit fee as outlined in the Building By-law.
- 9.4 Every pool enclosure permit application shall:
- a) Describe the land on which the work is to be done, by a description that will readily identify and locate the site on which the pool will exist;
 - b) Be accompanied by plans, sketches and specifications about the pool enclosure;
 - c) Be accompanied by the required fees as set out under the Building Fee By-law as amended;
 - d) State the names, addresses, and telephone number of the owner, applicant and the constructor;
 - e) Be signed by the applicant who shall certify as to the truth of the contents of the application.
- 9.5 The Chief Building Official or a Building Inspector, where the conditions outlined above have been fulfilled, issue a pool enclosure permit to the applicant unless:
- a) the proposed pool or pool enclosure will contravene this by-law or any other applicable law;
 - b) the application for it is incomplete; or
 - c) any fees due are unpaid.

- 9.6 Where an application for a permit remains incomplete or inactive for more than six (6) months after it is made, the application may be deemed by the Chief Building Official or their designate to have been abandoned, without further notice to the applicant.

Enclosures

- 9.7 In-ground pools shall provide protection around the entire perimeter of said pool. Every fence shall be:
- a) Not less than 1.2 meters (4feet) in height, measured from grade or any other raised deck outside the enclosure.
 - b) Be constructed as to not have openings, holes or gaps larger than 3.8cm (1.5inches) in its shortest dimension.
 - c) Fences shall be constructed of the following materials and comply with requirements set out under the Zoning by-law as amended;
 - i. In the case of a wrought iron fence, pickets shall be a minimum of 1.6cm (5/8 inch) in diameter and a picket spacing shall not exceed 10.16 centimeters (4inches) on center.
 - ii. In the case of a chain link fence, chain link is to be a maximum of 38mm (1-1/2 inch) diamond pattern of not less than 11 or 13 gauge steel wire with vinyl or other approved coating. Chain link to be supported by steel line posts at a maximum of 2.4m (8feet), posts at corners and ends with a minimum of 750mm (30in) set into concrete within the ground.
 - iii. Other construction may be permitted provided an equivalent degree of safety is established and maintained as approved by the Building Inspector.
 - d) A fence shall be so constructed that all horizontal or diagonal structural members of the fence shall be located in the inside (pool side) of the fence.
 - e) All fences shall be so constructed that it cannot be used in a manner not to facilitate climbing.
 - f) All fences shall be so constructed as to have the only means of entry by gates or doors.
 - g) Gates shall be constructed to;
 - i. Maintain a minimum height of 1.2 meters (4feet)
 - ii. Shall be self-closing and equipped with self-latching device mounted near the top and inside of the gate
 - iii. Shall be equipped with a lockable latch

- iv. Installed with the intent that all gates or doors will remain securely closed when not in use.
 - h) All fences shall be set back a minimum of 1.2 meters (4 feet) from the nearest edge of the swimming pool.
- 9.8 In the case of a pool, including swim spas, where the sidewalls or retaining wall around the entire perimeter of the pool are a minimum of 1.2 meters (4 feet) in height and are so constructed as to prevent climbing, the pool may be protected by means of:
- a) A ladder that swings up and can be locked;
 - b) A ladder, which can be removed and store in a safe location; or,
 - c) A hard top pool with a lockable lid equipped with a lock.

Exemptions

- 9.9 Any pond is exempt from the provisions contained herein.
- 9.10 Any swimming pool that lawfully existed, having been subject to a Pool Permit at the time of passage of this by-law, is exempt from the provisions contained herein providing they remain in compliance with by-laws existing at the time of approval.

10. Prohibition of Fences on Township Land

- 10.1 No person shall erect a fence on Township property, including any highway, without the expressed prior written consent of the Township.
- 10.2 No person shall cause any work to be done, or connection of any item to a Township owned fence without written permission of the Township.

11. Line Fences Act

- 11.1 Any recommendations provided by fence viewers under the Line Fences Act, shall comply with the provisions of this by-law with respect to the construction, reconstruction or repair and location of a fence.

12. Inspection

- 12.1 The Township may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with:
- a) this by-law; or,
 - b) an order made under section 431 of the Municipal Act.

- 12.2 For the purposes of conducting an inspection pursuant to this by-law, the Township may:
- 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 from any person concerning a matter related to the inspection; and,
 - 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.

13. Enforcement

- 13.1 This By-law shall be administered by the Chief Building Official, Building Inspectors and By-law Enforcement Officers of the Township or such other person(s) as Council may, by by-law, appoint and be considered inspectors under the following terms of this by-law:
- a) Has the power to enter upon and examine any yards, vacant lots and grounds other than a dwelling at any reasonable time or times; and,
 - b) May be accompanied by such other person or persons, as they deem necessary to properly carry out their duties under this by-law.

14. Penalty

- 14.1 Every person who hinders, disturbs or obstructs any Inspector in carrying out their duties under this By-law or contravenes any of the provisions of this by-law, is guilty of an offence and upon conviction is liable to a fine as provided for in the Municipal Act, 2001, as amended, and/or the Provincial Offences Act.

15. Validity, Severability and Interpretation

- 15.1 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

15.2 Whenever any reference is made in this by-law to a statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.

15.3 Words importing singular number shall include the plural.

16. Schedules

16.1 That Schedule A "Residential Fence Diagram" and Schedule B "Part I Provincial Offences Act Fines" attached hereto forms part of this by-law.

17. Repeal

17.1 That By-law 03-14 and all amending by-laws are hereby repealed.

18. Force and Effect

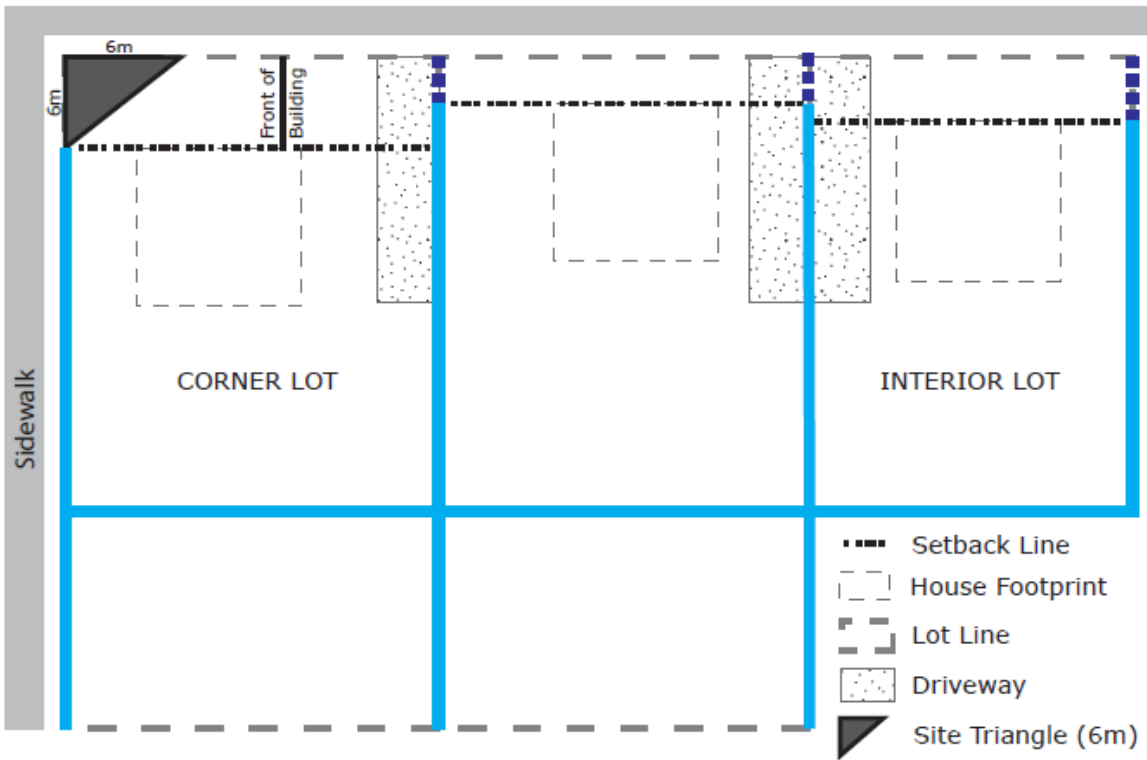
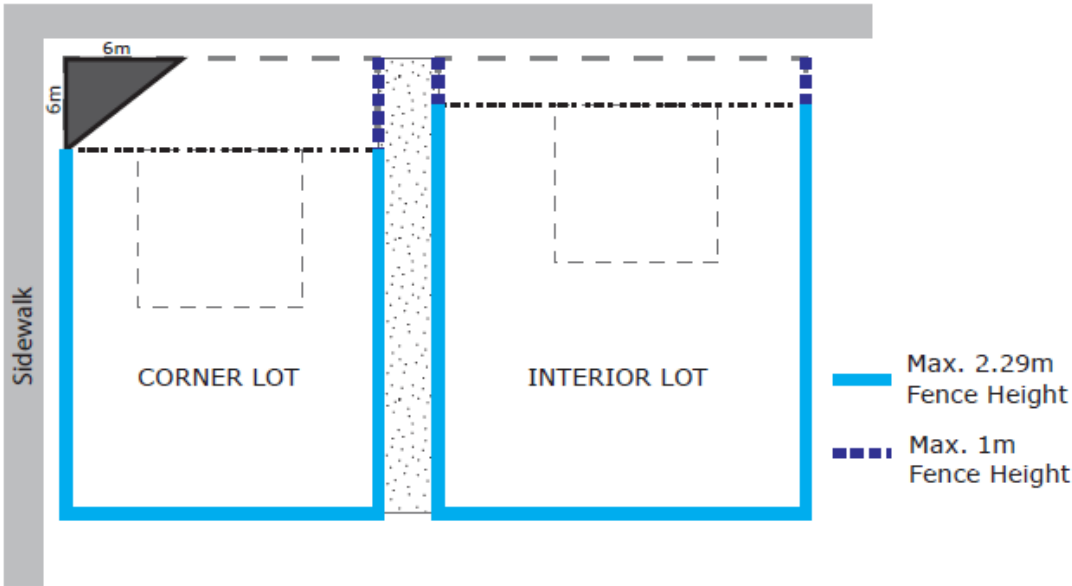
18.1 This by-law shall take force and effect upon final passage hereof.

By-law Number 25-20 read a first, second and third time and finally passed this 24th day of March, 2025.

Douglas Measures, Mayor

Sasha Helmkey, Director of Legislative Services/Clerk

By-law 25-20 - Fence and Pool Enclosure
The Corporation of the Township of Clearview
Schedule A – Residential Fence Diagram



By-law 25-20 - Fence and Pool Enclosure**The Corporation of the Township of Clearview****Schedule B – Part I Provincial Offences Act Fines**

Item	Short Form Wording	Provision for Creating or Defining Offence	Set Fine
1	Construct or erect a residential fence contrary to regulations in By-law	4.1	\$235.00
2	Construct or erect a non-residential fence contrary to regulations in By-law	4.2	\$235.00
3	Construct fence made of restricted materials	5	\$235.00
4	Install or maintain pool without approved closure	9.1	\$235.00
5	Permit water to be placed in pool without approved enclosure	9.1	\$235.00
6	Install or erect pool without a permit	9.2	\$235.00
7	Erect fence on Township owned property	10.1	\$235.00
8	Hinder, disturb or obstruct inspector carrying out duties	14.1	\$400.00

Note: The penalty provision for the offences indicated above is section 14 of By-law 25-20, a certified copy of which has been filed.