

Fences & Pools By-Law

THE CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON

BY-LAW NO. 48-2007

BEING A BY-LAW TO AMEND BY-LAW 2005-46, OF THE CORPORATION OF THE TOWNSHIP OF BLACK RIVER-MATHESON.

WHEREAS the Council of the Corporation of the Township of Black River-Matheson is desirous of amending By-law 2005-46, being a by-law to regulate the height and description of lawful fences and hedges and to require owners to fence outdoor swimming pools and to obtain permits for the construction of fences and swimming pools.

WHEREAS the Municipal Act R.S.O. 2001, Chapter 25, Section 11(1)7, authorizes a municipality to pass by-laws respecting matters relating to structures, including fences and signs;

AND WHEREAS the Municipal Act R.S.O. 2001, Chapter 25, Section 130, authorizes a municipality to pass by-laws respecting matters relating to structures, including fences and signs.

AND WHEREAS the Municipal Act R.S.O. 2001, Chapter 25, Section 130, authorizes a municipality to regulate matters for the purposes related to the health, safety and well being of the inhabitants of the municipality.

NOW THEREFORE the Council of the Corporation of the Township of Black River-Matheson enacts the following:

1. DEFINITIONS

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

- AGRICULTURAL ZONE means an agricultural zone as defined in the Township of Black River-Matheson Zoning By-law.
- BY-LAW ENFORCEMENT OFFICER means the By-law Enforcement Officer of the Corporation of the Township of Black River-Matheson.
- CHIEF BUILDING OFFICIAL means the Chief Building Official of the Corporation of the Township of Black River-Matheson.

- COMMERCIAL ZONE means a commercial zone as defined in the Township of Black River-Matheson Zoning By-law.
- CORNER LOT means a lot situated at the intersection of, or abutting upon, two or more public streets, having an angle of intersection of not more than one hundred and thirty-five (135) degrees.
- CORPORATION means the Corporation of the Township of Black River-Matheson.
- COUNCIL means the Council of the Corporation of the Township of Black River-Matheson.
- ELECTRIC FENCE means a fence consisting of a device for projecting an electric current through it.
- FENCE shall mean any barrier constructed of chain link, wood, stone, brick, metal or other similar materials or combination of such materials having an equivalent degree of strength for the purpose of delineating, screening, safeguarding, enclosing, separating or to define property boundaries, in whole or in part.
- INDUSTRIAL ZONE means an industrial zone as defined in the Township of Black River-Matheson Zoning By-law.
- OWNER means:
 - i. The registered owner of the land,
 - ii. A person authorized in writing by the owner (as defined in clause (i)) to act on the owner's behalf,
 - iii. A person apparently in possession of land, or,
 - iv. A lessee or tenant.
- PERSON means an individual, firm, business, corporation, association or partnership.
- RESIDENTIAL ZONE means a residential zone as defined in the Township of Black River-Matheson Zoning By-law.
- RURAL ZONE means a rural zoned as defined in the Township of Black River-Matheson Zoning By-law.

· SWIMMING POOL means a body of water which is permanently or temporarily located outdoors either above or below ground, or partly thereof, in which the depth of water at any point can exceed 36 inches (3 feet), and is used or capable of being used for the purpose of swimming, wading, diving or bathing. This shall include hot tubs, whirlpools and spas.

2. GENERAL PROVISIONS

i. No person shall construct, erect, maintain or cause to be constructed, erected or maintained a fence within the Township of Black River-Matheson without first obtaining a permit.

ii. No person shall construct, erect, maintain or cause to be constructed, erected and maintained a fence within the Township of Black River-Matheson that is in contravention of any provisions of this by-law, the zoning by-law, the Building Code Act, the Ontario Building Code and any other by-laws which might pertain to fences.

iii. No person shall construct, erect, maintain or cause to be constructed, erected and maintained a fence consisting of new or used tires, whether as a recycling project or not in any part of the Township of Black River-Matheson.

3. RESIDENTIAL AND RURAL ZONES

i. No person in a residential or rural zone shall construct a fence on any lot in between the front building line and the rear lot line including the rear lot line, greater than 6 feet (1.8 meters).

ii. Notwithstanding 3(i), where a person makes an application to the council of the Township of Black River-Matheson, council may increase the maximum height.

iii. On any corner lot, no fence shall be constructed of a height which adversely affects or obstructs the line of sight of the driver of any vehicle approaching or stopped at the intersection.

iv. Where hedges are used as fences between the front building line and the street line, the hedges shall not be in excess of the height limit for fences herein provided.

v. No person shall construct an electric fence or a fence consisting of barbed wire or equivalent materials in a residential or rural zone, unless specifically allowed within this by-law.

vi. Every fence constructed in any residential zone shall at all times be structurally sound.

4. SECURITY FENCE

i. Notwithstanding Section 3(v), a farmer shall not be restricted from using electric fencing for the purpose of controlling livestock.

ii. Notwithstanding Section 3(v), an electric fence shall be permitted at any landfill sites owned, operated or maintained by the Corporation of the Township of Black River-Matheson.

iii. Notwithstanding Section 3(v), a fence consisting of barbed wire or equivalent material shall be permitted at the following locations:

a) On land in an agricultural zone used for the purpose of controlling livestock.

b) On top of a fence erected for security reasons around any recreational, operational or storage facility owned, operated or maintained by the Corporation of the Township of Black River-Matheson.

5. INDUSTRIAL AND COMMERCIAL ZONES

i. No person shall construct a fence in an industrial or commercial zone in excess of 9.5 feet (2.5 meters).

ii. Notwithstanding Section 3(v), a fence consisting of barbed wire or equivalent material shall be permitted provided that:

a) The first strand of barbed wire must be located at the top of the fence, starting no less than 8 feet (2.4 meters) from the grade.

b) The barbed wire projects inwards towards the area enclosed.

6. FENCES ON TOWNSHIP PROPERTY

No person shall construct or permit to be constructed a fence from the street line to the sidewalk or roadway and along the same on the property of the Township of Black River-Matheson.

7. SWIMMING POOLS

A. No person shall construct or maintain or permit to be constructed or maintained a swimming pool within the Township of Black River-Matheson without first:

- i. Obtaining a pool permit from the Township of Black River-Matheson.
- ii. Remit the required fee as set out in the Township of Black River-Matheson's user fee by-law.

B. In addition to section A, every person who constructs or maintains or permits to be constructed or maintained any swimming pool within the Township of Black River-Matheson shall construct a fence in accordance with the following minimum requirements.

- i. Obtain a building permit from the Township of Black River-Matheson for the construction of the fence.
- ii. Every fence which encloses a swimming pool shall be 6 feet (1.8 meters) in height, located at a distance of not less than 5 feet (1.5 meters). In a residential zone, the fence shall be located not more than 30 feet (9.1 meters) from the swimming pool.
- iii. Every fence shall be equipped with a gate or door that is equipped with a self-closing and self latching device which must be placed at the top on the swimming pool side of the gate or door. Each gate or door shall remain closed and locked when the swimming pool is not in use.
- iv. Section 7(B) (iii) does not apply to the door of any dwelling house, building, accessory building which forms part of the fence.
- v. Decks are permitted around swimming pools provided they comply with the provisions set out in section 7(B) (iii).
- vi. No person shall fill or permit water to remain in a swimming pool until all fences and gates as provided for in this by-law have been installed.

C. Fencing, including gates and doors, for swimming pools:

- i. Shall be vertically boarded wood construction, chain link construction, solid wood, basket weave construction, masonry, plastic, metal construction or a material having an equivalent degree of strength.
- ii. Shall have no rails or other horizontal or diagonal bracing or attachments on the outside that may facilitate climbing.

- iii. Shall have no opening with a horizontal dimension greater than 3 inches (76 mm).
- iv. Shall not be more than 4 inches (102 mm) above the finished grade.
- v. Shall have no device for the projecting electric current through the fence or contained barbed wire in any manner.
- vi. The wall of any dwelling house, building or accessory building may be utilized to effectively enclose any swimming pool.

D. Notwithstanding Sections 7(A) and 7(B), structures known as hot tubs, whirlpools or spas shall be exempted from the provisions of this by-law provided that it is adequately secured with a tight fitted cover with a locking device, which shall be kept locked and in place when not in use. If a fence as outlined in Sections 7(B) and 7(C) are in place, then a cover is not required.

8. ADMINISTRATION

The By-Law Enforcement Officer, Chief Building Official or their designates shall have the authority to administer this by-law in its entirety.

9. VIOLATION AND ORDERS

- i. A violation notice shall be delivered or sent by prepaid registered mail to the owner or person who contravenes any provisions of this by-law with an order to remedy the infraction.
- ii. After seven (7) days, if an order has not been complied with as per instruction of the By-law Officer, Chief Building Official or their designates, all work to render a fence or swimming pool safe and in compliance with this by-law may be performed by the Township of Black River-Matheson, and all costs shall be borne by the owner or person and may be recoverable in like manner as municipal taxes.

10. PENALTY

Any person who contravenes any provisions of this by-law is guilty of an offense and on conviction is liable to a fine of not more than \$5000.00 as set out in the Provincial Offenses Act, R.S.O. 1990, Chapter P.33.

11. TITTLE

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

12. SCHEDULES TO FORM PART OF BY-LAW

Schedule "A" shall form part of this by-law.

13. VALIDITY

If any section, clause or provision of this by-law, including anything contained in any schedule attached hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the 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 that all remaining sections, clauses or provisions of this by-law shall remaining full force and effect until repealed, not withstanding that one or more provisions thereof shall have to be declared invalid.

That by-law 2092-99 is hereby repealed.

This By-Law shall come into force and take effect on the date of the final passing thereof.

Read a first and second time on this ____ day of _____, 2007.

Read a third time and finally passed on this ____ day of _____, 2007.

MAYOR

CLERK