

# **THE CORPORATION OF THE TOWN OF AJAX**

## **BY-LAW NUMBER 81-2010**

A By-law to prescribe the height and description of lawful fences in the Town 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 CORPORATION OF THE TOWN OF AJAX HEREBY ENACTS AS FOLLOWS:

### **1. SHORT TITLE**

1.1 This By-law may be cited as the Fence By-law.

### **2. DEFINITIONS**

2.1 In this By-law:

- (a) "Council" means the Council for The Corporation of the Town of Ajax.
- (b) "corner lot" means a lot situated at the intersection of two or more streets having an angle of intersection of not more than one hundred and thirty five degrees (135).
- (c) "daylighting triangle" means 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, 4.5 metres in a residential zone and 7.5 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 "daylighting triangle".
- (d) "electrical fence" means a fence through which electricity passes.
- (e) "enclosed" means when the property is enclosed in a way that can be relied on to prevent entry of the general public.
- (f) "erect" includes alter, construct, place, locate, install or relocate.
- (g) "fence" includes but not 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.
- (h) "front lot line" means the lot line that divides the lot from the street, provided that, in case of a corner, the shorter lot line that abuts a street shall be deemed to be the front lot line.
- (i) "highway" means the entire right-of-way of a common and public highway, road allowance, street, avenue, parkway, driveway, square, place, viaduct, bridge or trestle, designated and intended for, or used by, the general public for the passage of pedestrians and vehicles under the jurisdiction of the Town.
- (j) "grade" means the surface of the ground below a fence at each location where a structural support is imbedded in the ground.
- (k) "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 20mm and a minimum thickness of 1.7mm, primarily used to absorb the impact of a golf ball. The netting shall be constructed in a way to have minimal intrusive visual impact.

- (l) "lot" shall mean a parcel of land which is only capable of being legally conveyed as a single lot pursuant to section 50 of the Planning Act, R.S.O. 1990, c.P.13.
- (m) "ornamental pond" includes, 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 can exceed 50 cm, and is used as a decorative feature in a yard, and kept for its' esthetic value rather than a useful purpose.
- (n) "owner" includes the person or persons identified in the most recent municipal assessment roll as the owner of the subject property.
- (o) "person" means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee on possession.
- (p) "privately-owned outdoor swimming pool" includes, 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 can exceed 50 cm, and is used or is capable of being used for swimming, wading or bathing.
- (q) "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 highway.
- (r) "rear lot line" means the farthest lot line opposite the front lot line, or in the case of a triangular lot, shall be that point formed by the intersection of the side lot lines.
- (s) "side lot line" means a lot line other than a front or rear lot line.
- (t) "street line" shall mean the dividing line between a lot and a street.
- (u) "swimming pool enclosure" means a fence, wall or other structure including doors and gates, surrounding a privately-owned outdoor swimming pool.
- (v) "swimming pool enclosure permit" means a permit issued under this By-law;
- (w) "Town" means The Corporation of the Town of Ajax;
- (x) "TRCA" means The Toronto and Region Conservation Authority;
- (y) "yard" means an open, uncovered space on a lot appurtenant to a building and unoccupied by buildings or structures and;
  - i) "front yard" means a yard extending across the full width of a lot between the front lot line and front walls of the nearest building or structure on the lot; and
  - ii) "interior side yard" means a side yard other than an exterior side yard; and
  - iii) "rear yard" means a yard extending across the full width of a lot between the rear lot line and the nearest wall or walls of any main building on the lot for which the yard is required; and
  - iv) "side yard" shall mean a yard extending from the front yard to the rear yard between the side lot line and the nearest wall of any building or structure on the lot for which the yard is required.

### **3. FENCING OF PRIVATELY-OWNED OUTDOOR SWIMMING POOLS**

- 3.1 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 Town.

- 3.2 Every application for a swimming pool enclosure permit shall be made in the approved form.
- 3.3 Every application for a swimming pool enclosure shall be accompanied by:
- (a) a completed road occupancy permit application;
  - (b) a letter from Veridian Hydro ensuring clearance of all cables;
  - (c) two copies of a legal survey plan;
  - (d) two copies of a site plan;
  - (e) permit fee in the amount described in Schedule "A" of this by-law.
- 3.4 Any lot within the T.R.C.A screening area must receive T.R.C.A approval in writing prior to submitting the swimming pool enclosure permit application.
- 3.5 A swimming pool enclosure permit shall not be issued by the Town, unless the swimming pool enclosure application complies with all relevant provisions of this by-law, and the Town may impose any conditions deemed appropriate for the permit.

#### **4. SWIMMING POOL ENCLOSURE**

- 4.1 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 1.5 m., including gates therein;
  - (b) shall be constructed of:
    - i) chain-link not greater than 40mm diamond mesh, and galvanized steel wire not less than 2.680mm diameter (11 gauge); or
    - ii) vertical board on board; or
    - iii) wrought iron fencing with at least 1 meter between horizontal members and with no greater than 10 centimetres of spacing between vertical bars; or
    - iv) 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) may incorporate all or a portion of the wall of a building, but no entrances to the pool area shall be permitted through such wall unless the entrance is set back a minimum distance of 1.8 m from the water's edge of the swimming pool;
  - (d) 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 1.5 m 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 and locked at all times when a responsible person is not present and supervising the swimming pool;
  - (e) shall be located not less than 1.2m 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 waters edge may be as close as .5m to the fence portion of the system;
  - (f) shall have no rails or other horizontal or diagonal bracing or attachments on the outside that would facilitate climbing;
  - (g) when a wall of a building forms part of such enclosure, the main entrance to the building shall not be located within the enclosure.

- 4.2 No person shall place water in or cause 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.

## **5. ORNAMENTAL PONDS**

- 5.1 Every owner of a privately-owned ornamental pond deeper than 50 cm in depth must meet the same requirements as required in section 4 for a swimming pool enclosure.

## **6. FENCES ON RESIDENTIAL PROPERTY**

- 6.1 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.
- 6.2 No person shall erect or cause to be erected in a front yard on any residential property a fence which is higher than 1 meter above grade.
- 6.3 Section 6.1 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; or
  - (b) a noise control barrier erected by or as a requirement of a government agency acting pursuant to statutory authority; or
  - (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 Town to determine structural stability, solely located on the owner's property, on any property abutting or located within 25metres of a golf course, constructed for the purposes of the personal protection of persons and/or property.
- 6.4 Where a rear yard of a lot is adjacent to the front yard of another lot, Section 6.1 shall apply.
- 6.5 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 in height.
- 6.6 No owner shall place any materials or articles against or near the outside of a swimming pool enclosure that may facilitate climbing the enclosure, unless the owner's yard is enclosed.

## **7. PRIVACY SCREEN**

- 7.1 No person shall erect, or cause to be erected, a privacy screen in a front yard.
- 7.2 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 0.6 metres 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.

## **8. FENCES IN ZONES OTHER THAN RESIDENTIAL**

- 8.1 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 constructed of any materials outside of;
- (a) chain-link and galvanized steel wire; or
  - (b) vertical board on board; or

- (c) wrought iron fencing with no greater than 10 centimetres of spacing between vertical bars; or
- (d) any combination thereof

without first having applied for and receiving a Site Plan Approval or a Site Plan Amendment pursuant to the Planning Act, from the Town.

8.2 No person shall erect or cause to be erected in a front property in any zone, except a residential zone, a fence which is higher than 1 meter or constructed of any materials outside of;

- (a) chain-link and galvanized steel wire; or
- (b) vertical board on board; or
- (c) wrought iron fencing with no greater than 10 centimetres of spacing between vertical bars; or
- (d) any combination thereof

without first having applied for and receiving a Site Plan Approval or a Site Plan Amendment pursuant to the Planning Act from the Town.

### **9. DAYLIGHTING TRIANGLES**

9.1 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 highway or entering a highway from another highway or driveway or of any traffic sign or control device or which for any other reason constitutes a hazard.

### **10. HIGHWAYS AND OTHER PUBLIC LANDS**

10.1 A fence separating land owned by the Town, except for any land that constitutes a public highway, including land abutting a public highway that is held as a reserve by a municipality or other public authority to separate land from the highway, or to land that is being held by a municipality or other public authority as an unopened road allowance or for future public highway purposes, shall be constructed in accordance with the specifications contained in the Town of Ajax Engineering Design Criteria and Standard Drawings Manual. (Schedule "B").

10.2 No owner shall alter an existing division fence which separates lands owned by, or under the control of, or managed by the Town, by lease, agreement or otherwise, without following the Town's Work Instruction for the Installation, Repair or Replacing of Fences Abutting Private Property as administered by the Town's Operations and Environmental Services Department.

10.3 A fence erected as a noise control barrier shall be maintained by the owner of the land on which the fence is erected and shall be of the same construction, provided the material is available.

### **11. MAINTENANCE**

11.1 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 good state of repair.

11.2 For the purposes of this by-law "good state of repair" shall mean;

- (a) the fence, swimming pool enclosure, privacy screen, or invisible safety net is complete and in a structurally sound condition and plumb and securely anchored;
- (b) protected by weather-resistant materials;
- (c) fence, swimming pool enclosure, privacy screen, or invisible safety net components are not broken, rusted, rotten or in a hazardous condition;

- (e) all stained or painted fences, swimming pool enclosures, privacy screens, or invisible safety net are maintained free of peeling paint or stain; and
- (f) that the fence, swimming pool enclosure, privacy screen, or invisible safety net does not present an unsightly appearance, deleterious to abutting land or to the neighbourhood.

## **12. HAZARDOUS FENCES**

- 12.1 No person shall erect or cause to be erected a fence containing barbed wire or razor wire on any lands with the exception of lands located within a Prestige Employment or General Employment zone as defined in any zoning by-law of the Town, without first having applied for and receiving a Site Plan Approval or a Site Plan Amendment pursuant to the Planning Act from the Town.
- 12.2 No person shall erect or cause to be erected an electrical fence, except a fence used for the containment of animals in connection with a farming operation, without first having applied for and receiving a Site Plan Approval or a Site Plan Amendment pursuant to the Planning Act from the Town.

## **13. ADMINISTRATION AND ENFORCEMENT**

- 13.1 The Municipal Law Enforcement Officer shall be responsible for the administration and enforcement of the By-law.
- 13.2 Any owner who contravenes any provision 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.
- 13.3 In the event any part or provision of this by-law is held invalid, the remainder of the by-law shall continue in force.
- 13.4 Where there is a conflict between this by-law and any other by-law of the Town, the provisions of this by-law shall prevail.

## **14. REPEAL**

- 14.1 That By-law #125-2006, as amended, be hereby repealed.

Read a first and second time this  
Fourteenth day of June, 2010

Read a third time and passed this  
Fourteenth day of June, 2010

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Mayor

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D-Clerk

**SCHEDULE "A"**

**BY-LAW NUMBER 81-2010**

A by-law to prescribe heights and descriptions of lawful fences and to require the owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools.

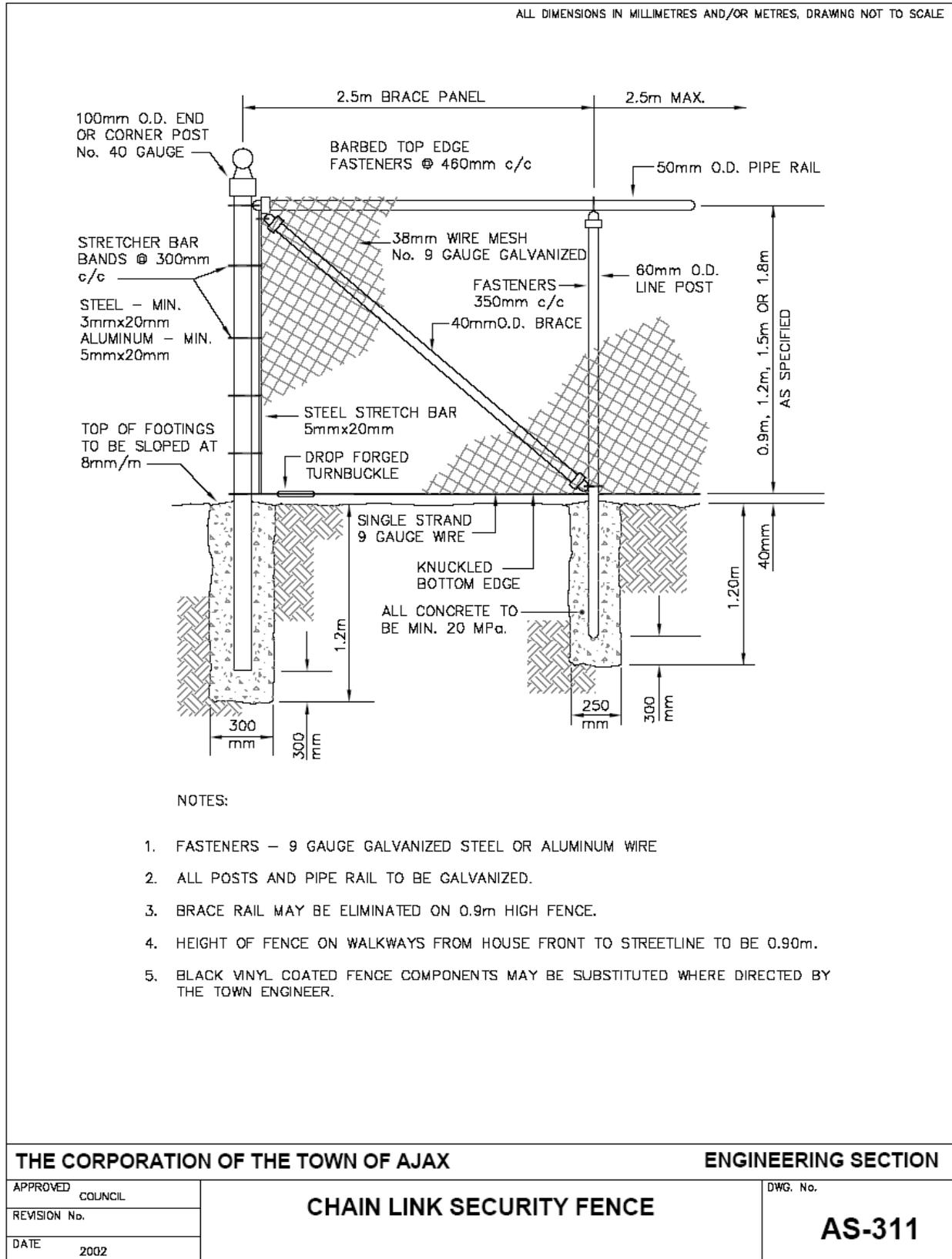
The fee for a swimming pool enclosure permit shall be seventy-five dollars, (\$75.00).

## SCHEDULE "B"

### BY-LAW NUMBER 81-2010

A by-law to prescribe heights and descriptions of lawful fences and to require the owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools.

#### 1.1 Specifications for a Chain Link Security Fence as contained in the Town of Ajax



1.2 Specifications for a Wood Privacy Fence as contained in the Town of Ajax Engineering

