

## THE CORPORATION OF THE TOWN OF CALEDON

### BY-LAW NO. 2017-68

A by-law to regulate the height, location and maintenance of fences and privacy screens, to prescribe the minimum requirements for pool enclosures within the Town of Caledon and repeal By-law 2005-36, as amended and By-law 2016-091

WHEREAS Sections 5(3), 8, 11(3), 98, 391(1.1), 425, 429, 431, 436, 445 and 446 of the *Municipal Act*, 2001, S.O. 2001, c. 25 authorize a municipality to regulate structures, including fences, in the manner set out in this By-law;

AND WHEREAS the Council of The Corporation of the Town of Caledon deems it necessary to regulate fences, privacy screens and pool enclosures within the Town of Caledon;

NOW THEREFORE the Council of The Corporation of the Town of Caledon ENACTS AS FOLLOWS:

#### **Short Title**

This By-law shall be known as the "Fence By-law".

#### **Part 1 – DEFINITIONS**

1.1 In this By-law:

"*Building Code Act*" means the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended;

"*Chief Building Official*" means the Chief Building Official appointed by the Town of Caledon pursuant to the *Building Code Act* or her or his *designate*;

"*Constructed*" means to be placed, built or installed by a *person* or caused or permitted to be placed, built or installed by another *person*;

"*Council*" means the Council for The Corporation of the Town of Caledon;

"*Designate*" means an employee of the Town of Caledon who has been selected by the *Director* or *Chief Building Official* to administer all or part of this By-law on their behalf;

"*Director*" means the Manager, Regulatory Services for the Town of Caledon, her or his *designate* or, in the event of any organizational changes, a successor position;

"*Electrical fence*" means any *fence* or attachment thereto which is used to conduct electric current;

"*Fees By-law*" means the Town of Caledon's Fees By-law, as amended;

"*Fence*" means a structure and any part thereof, which is used to enclose or divide in whole or in part a *yard* or other land, used to establish a property boundary or used to provide privacy; without limiting the definition of a fence, such definition may include a railing, wall, line of posts, wire, gate, boards or pickets, metal, masonry or any similar materials but shall not include a retaining wall;

"*Finished grade*" means the elevation of the finished ground at the base of a *fence* or *privacy screen* and, in the case of a *pool enclosure*, shall mean the level of the proposed or finished ground on both the interior and exterior of the enclosure;

"*Guard*" shall mean a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways or other locations to prevent accidental falls from one level to another;

“*Height*” means the vertical distance measured between the *finished grade* and the highest point of a *fence, privacy screen, pool enclosure* or any part thereof, directly above; in the case of a *fence, privacy screen* or *pool enclosure* located on top of a retaining wall, height shall mean the vertical distance between the top of the retaining wall and the highest point of the *fence, privacy screen* or *pool enclosure* directly above;

“*Lot*” means a parcel or contiguous parcels of land in one ownership which is capable of being legally conveyed in accordance with the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or is described in accordance with a registered plan of condominium;

“*Lot line*” means any boundary of a *lot* or the vertical projection thereof;

“*Lot line, exterior side*” means any *lot line* other than a *front lot line* which is also a *street line*; in the case where a *lot line* abuts a 0.3 metre reserve block, which in turn abuts a *street line*, such *lot line* shall be considered an exterior side lot line;

“*Lot line, front*” means, in the case of an interior *lot*, the *lot line* dividing the *lot* from the *street*; in the case of a corner *lot*, the shorter *lot line* abutting a *street* shall be deemed to be the front lot line except, where the *lot lines* abutting a *street* are the same length, the *lot line* used for the principal entrance to the *lot* shall be deemed to be the front lot line;

“*Lot line, interior side*” means, except for corner *lots*, a *lot line* which intersects a *front lot line*; for corner *lots*, interior side lot line means a *lot line*, other than an *exterior side lot line*, which intersects the *front lot line*;

“*Lot line, rear*” means any *lot line* which is not a *front lot line*, an *exterior side lot line* or an *interior side lot line*;

“*Noise attenuation barrier*” means a barrier which may be made of wood, concrete panels or other materials and which is designed to suppress noise and sound;

“*Ontario Building Code*” means the *Ontario Building Code* established under the *Building Code Act*;

“*Owner*” means the *person* holding registered title to the land, who owns or has charge or is in control of the *lot*, land or other structure or part thereof, and includes a lessee, tenant, occupant or a mortgagee in possession thereof;

“*Person*” means an individual, association, firm, partnership, corporation, trust, incorporated company, corporation created under the *Condominium Act*, 1998, S.O. 1998, c. 19, as amended, organization, trustee or agent, and the heirs, executors or other legal representatives of a person to whom the context can apply according to law, and includes the directors and/or officers of a corporation and an owner;

“*Pool enclosure*” means a *fence, wall* or combination thereof, including doors and gates built to surround a privately owned outdoor *swimming pool*;

“*Pool enclosure permit*” means a permit issued under this By-law for a *pool enclosure*;

“*Privacy screen*” means a structure used as a visual barrier to shield any part of a *yard* from view of any adjacent *lot* or *street*;

“*Service entrance*” shall mean the entrance into a building which is normally used by *persons* accessing the building for the purpose of delivering goods or rendering maintenance service as opposed to the main or principal entrance;

“*Sight triangle*” means the triangular space on a *lot* formed by two intersecting *street lines* and a line drawn from a point on one *street line* across such *lot* to a point in the other *street line*, each such point being the required distance from the point of intersection of the *street lines* (measured along the *street lines*), and 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 tangent to the *street lines*, and the distance from the point of intersection of the *street lines* and forming the sight triangle shall be 9 metres, except where one of the *street lines* is a Regional Road, where the distance shall be 15 metres;

“*Street*” means a public thoroughfare under the jurisdiction of either the *Town*, the Region of Peel or the Province of Ontario, but does not include a private lane, a private right-of-way or a private road;

“*Street line*” means the limit of a *street* and is the dividing line between a *lot* and a *street*;

“*Swimming pool*” shall mean a body of water located outdoors, above-ground or in-ground, on privately owned property, contained in whole or in part by artificial means, designed to contain water to a depth of 610 millimetres or more, used or maintained for swimming, diving or bathing, and which is not a pond located on land *zoned* agricultural by the *Zoning By-law* and used for agricultural purposes;

“*Town*” means The Corporation of the Town of Caledon;

“*Town designate*” means a *person* who is an employee of the *Town*, and who has been appointed by *Council* to administer and/or enforce all or part of this By-law on behalf of the *Town*, and shall include any and all municipal By-law enforcement officers;

“*Yard*” means an open, uncovered space on a *lot*, appurtenant to a building and unoccupied by buildings except as specifically permitted under the *Zoning By-law*;

“*Yard, exterior side*” means the *yard* extending from the *exterior side lot line* to the nearest wall of the main building on the *lot*; an exterior side yard does not include any portion of the *front yard* but shall extend to the *rear lot line* and incorporate any portion of the *rear yard* between the *exterior side lot line* and where the two *yards* initially intersect;

“*Yard, front*” means a *yard* extending across the full width of the *lot* between the *front lot line* and the nearest front wall of the main building located on the *lot*;

“*Yard, interior side*” means a *yard* extending from the *interior side lot line* to the nearest side wall of the main building on the *lot* but does not include any portion of the *front yard* or *rear yard*;

“*Yard, rear*” means a *yard* extending across the full width of the *lot* between the *rear lot line* and the nearest rear wall of the main building located on the *lot*;

“*Zone*” or “*Zoned*” means a designated area of land use in accordance with the *Zoning By-law*;

“*Zoning By-law*” means the *Town’s Zoning By-law*, as amended.

## **PART 2 – Application**

- 2.1 Except where specified otherwise in this By-law, the provisions contained herein shall apply to all lands within the limits of the *Town*.
- 2.2 The *Line Fences Act*, R.S.O. 1990, c. L. 17, as amended, shall not apply in any part of the *Town*.
- 2.3 A *fence* shall be deemed to be in compliance with this By-law if it existed prior to the effective date and is in accordance with the provisions for *fences* contained in the By-laws then applicable or a variance granted by *Council*. Where, in the opinion of the *Director*, a *fence* does not meet this threshold, such a *fence* shall be required to comply with this By-law.
- 2.4 The provisions of this By-law shall not apply to any *fence*, *privacy screen* or *noise attenuation barrier constructed* by, or under the direction of, the Government of Canada, Province of Ontario, Region of Peel or the *Town*.
- 2.5 In the event of a conflict between the provisions of this By-law and the *Zoning By-law*, the provisions of the *Zoning By-law* shall prevail. To the extent of a conflict between this By-law and any other *Town* By-law in effect, the provisions that establish the higher standard to protect the health, safety and welfare of the public shall prevail.
- 2.6 Nothing in this By-law constitutes an exemption from the requirements of any other By-law in effect or applicable legislation, including but not limited to the *Building Code Act*, the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended and the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2, as amended.

## **Exceptions**

- 2.7 With the exception of Section 6.10, the provisions of this By-law shall not apply to any *fence, privacy screen or noise attenuation barrier constructed* in accordance with a site plan agreement, subdivision agreement or other development agreements and applications approved by the *Town*.
- 2.8 Notwithstanding Sections 3.1 through 3.3, where a *fence* is used to enclose or delineate an area required as part of a recreational facility, such as a tennis or basketball court, the *fence* is permitted to have a maximum *height* of 3.5 metres provided the *fence* is of chain link construction.
- 2.9 No part of this By-law shall limit the construction of a *fence*:
- (1) on a railway right-of-way or other railway lands; and
  - (2) by a local hydro utility provider.

## **PART 3 – Fence Height Provisions**

### **Residential Zones**

- 3.1 No *fence* in a residential *zone* shall be *constructed* unless in accordance with the following:
- (1) a *fence* in a *front yard* shall not exceed 1.5 metres in *height*;
  - (2) a *fence* in an *interior side yard* shall not exceed 2 metres in *height*;
  - (3) a *fence* in an *exterior side yard* shall not exceed 1.5 metres in *height*; and
  - (4) a *fence* in a *rear yard* shall not exceed 2 metres in *height*.
- 3.2 Notwithstanding the provisions outlined in Section 3.1:
- (1) in the *front yard* of a *lot* within a registered plan of subdivision, no *fence* shall exceed 1 metre in *height*; and
  - (2) where a *fence* on a residentially *zoned lot* directly abuts a commercially, industrially or institutionally *zoned lot*, that portion of the *fence* is permitted to be *constructed* to a maximum *height* of 3 metres.

### **Commercial, Industrial and Institutional Zones**

- 3.3 No *fence* in a commercial, industrial or institutional *zone* shall be *constructed* unless in accordance with the following:
- (1) a *fence* in a *front yard* shall not exceed 1 metre in *height*; and
  - (2) a *fence* in an *interior side yard, exterior side yard or rear yard* shall not exceed 3 metres in *height*.

## **PART 4 – Privacy Screen Provisions**

- 4.1 A *privacy screen* shall not be *constructed* unless it is within an *interior side yard, exterior side yard or rear yard* of a *lot* in a residential *zone*, and in accordance with the following provisions:
- (1) no *privacy screen* shall exceed 3 metres in *height*;
  - (2) a *privacy screen* shall be located no less than 1.5 metres from an *interior side lot line*;
  - (3) a *privacy screen* shall be located no less than 1.5 metres from a *rear lot line*;
  - (4) a *privacy screen* shall be located no less than 4.5 metres from an *exterior side lot line or a front lot line*; and
  - (5) the total length of a *privacy screen*, or where more than one *privacy screen* exists, the total combined length of all *privacy screens*, shall not exceed 8 metres on a *lot*.

- 4.2 Notwithstanding Section 4.1(2), where a *privacy screen* is located to provide a visual barrier between dwelling units divided by a common wall, such a *privacy screen* shall be *constructed* no less than 30 centimetres from an *interior side lot line*.
- 4.3 Where a *privacy screen* is *constructed* on or as part of a deck or platform, the height of the *privacy screen* shall not exceed 2 metres as measured from the top of such deck or platform.

### **Part 5 – Pool Enclosures**

- 5.1 Sections 2.3, 6.7, 6.9 and 6.11 shall not apply to any *fence* that is included as part of a *pool enclosure* and a variance, in accordance with Sections 7.5 through 7.10, shall not be granted to Part 5 of this By-law.

### **Prohibitions**

- 5.2 No part of a *swimming pool* shall be *constructed*:
- (1) without first obtaining a *pool enclosure permit*; or
  - (2) contrary to an approved *pool enclosure permit*.
- 5.3 No *owner* shall place water, or permit water to be placed, or permit water to remain in a *swimming pool* unless:
- (1) a *pool enclosure* has first been *constructed* around such pool;
  - (2) a *pool enclosure permit* has been issued; and
  - (3) the *pool enclosure* has been inspected and deemed to be in compliance with this By-law by the *Chief Building Official* or *Town designate*.
- 5.4 No *pool enclosure* shall be *constructed* around a *swimming pool* without the prior issuance of a *pool enclosure permit*.
- 5.5 No *owner* shall place water, or permit water to be placed, or permit water to remain in a *swimming pool* where a *pool enclosure* has deteriorated, has become unsafe or dysfunctional.
- 5.6 No *swimming pool* shall be *constructed* which impacts the grading so as to adversely affect the drainage of the land upon which it is located, or the drainage of the surrounding land and the *finished grade* shall be required to be accepted by the *Chief Building Official* or *Town designate*.
- 5.7 No *person* shall discharge water from a *swimming pool* such that:
- (1) the water discharge flows directly or indirectly into a storm sewer or storm drainage system;
  - (2) the water discharge flows onto an adjoining property;
  - (3) the water discharge flows over a valley or ravine wall; or
  - (4) the water discharge causes erosion or instability to the valley or ravine slope.

### **Pool Enclosure Specifications**

- 5.8 Every *owner* shall ensure that the *pool enclosure*:
- (1) has a *height* of not less than 1.2 metres at any point above *finished grade*;
  - (2) is made of chain link, wood, metal, masonry, a combination of these materials or other materials or construction as approved by the *Chief Building Official*;
  - (3) does not encroach into the *front yard*;
  - (4) is located not less than 1.2 metres from the perimeter of the *swimming pool*, as measured from the waters' edge; and
  - (5) does not include a *privacy screen* as part of the *pool enclosure*.

- 5.9 When a wall of a building forms part of the *pool enclosure*, a main or *service entrance* to the building shall not be located within the *pool enclosure*.
- 5.10 Notwithstanding Section 5.9, a *service entrance* to the building may be located within the *pool enclosure* where a sign is maintained directing all service personnel to use the main entrance.
- 5.11 No exterior service meters or intakes shall be located within a *pool enclosure*.
- 5.12 No projection, rail, attachment or any other bracing on the exterior of a *pool enclosure* shall be *constructed* in a manner which facilitates climbing.
- 5.13 No object located within 1.2 metres of the exterior side of a *pool enclosure*, on the property where the *pool enclosure* is located or any adjacent property, shall facilitate climbing, including but not limited to, any *fence* not part of the *pool enclosure*, *privacy screen*, tree, landscaping element, air conditioning unit, meter, steps, ledges, windows or sills.
- 5.14 No *person* shall place or lean any object against or near the exterior of a *pool enclosure* in a manner that may facilitate the climbing of such *pool enclosure*.
- 5.15 No part of a *pool enclosure* shall contain barbed wire, electrical wiring, sharp projections or any other objects and/or materials that would create a danger to the safety of *persons* or animals.
- 5.16 The provisions of this By-law shall not prevent the use of an existing *pool enclosure* if:
- (1) the *pool enclosure* was lawfully *constructed* prior to the effective date of this By-law; and
  - (2) the *pool enclosure* has been continuously maintained and kept in good repair both before and after the effective date of this By-law.
- 5.17 Where an existing *pool enclosure*, or any portion thereof, is replaced, the replaced *pool enclosure* shall be *constructed* in accordance with this By-law.

#### Pool Enclosure Material

- 5.18 Chain Link Fencing: Where a *pool enclosure* is made of chain link fencing, it shall be *constructed* in accordance with the following specifications:
- (1) the *fence* shall be made of medium grade pipe;
  - (2) the *fence* shall commence no more than 100 millimetres above the *finished grade*;
  - (3) the fabric shall be of 2.5 millimetre (12 gauge) galvanized material with 38 millimetre maximum mesh;
  - (4) the line posts shall be:
    - (a) galvanized;
    - (b) capped;
    - (c) a minimum of 27 millimetres outside diameter; and
    - (d) set in concrete 1.2 metres below *finished grade*;
  - (5) the terminal posts shall be:
    - (a) galvanized;
    - (b) capped;
    - (c) a minimum of 48 millimetres outside diameter; and
    - (d) set in concrete 1.2 metres below *finished grade*;
  - (6) the maximum distance between every post shall be 3 metres;
  - (7) the top rail shall be:
    - (a) galvanized;
    - (b) a minimum of 35 millimetres outside diameter;

(8) the wire along the bottom of the *pool enclosure* shall be:

- (a) galvanized;
- (b) a minimum of 3.5 millimetre (9 gauge) thickness.

5.19 Wood Fencing: Where a *pool enclosure* is made of wood, it shall be *constructed* in accordance with the following specifications:

(1) it shall be made using wood that is:

- (a) pressure-treated; and
- (b) redwood, cedar, or any other type of wood which is naturally resistant to weathering over a prolonged period of time;

(2) the line posts shall be:

- (a) a minimum of 100 millimetres by 100 millimetres in cross-section; and
- (b) in ground or set in concrete to a minimum of 1.2 metres below *finished grade*;

(3) the maximum distance between every post shall be 2.4 metres;

(4) between the posts horizontal frame members supporting vertical panels shall be installed;

(5) the horizontal frame members shall be a minimum of 38 millimetres by 89 millimetres and not less than 1.2 metres apart;

(6) the vertical panels shall be a minimum of 100 millimetres above the *finished grade*; and

(7) the spacing between the vertical panels shall be a minimum of 12.7 millimetres and a maximum of 89 millimetres.

5.20 Metal Fencing: Where a *pool enclosure* is made of metal, and is not chain link fencing, it shall be *constructed* in accordance with the following specifications:

(1) it shall be made of wrought iron, steel, aluminum or other similar metal material;

(2) the vertical posts shall be:

- (a) a minimum of 2.5 millimetres (12 gauge) in thickness;
- (b) a minimum 38 millimetres square tube;
- (c) capped;
- (d) set in concrete to a minimum of 1.2 metres below *finished grade*; and
- (e) a maximum distance of 2.4 metres apart;

(3) the horizontal bars shall be:

- (a) a minimum of 1.2 millimetres (18 gauge ) in thickness;
- (b) a minimum 25.4 millimetres square tube; and
- (c) spaced not less than 1.2 metres apart;

(4) the vertical bars shall be:

- (a) a minimum of 1.2 millimetres (18 gauge) in thickness;
- (b) a minimum 12.7 millimetres round or square tube;
- (c) spaced no more than 89 millimetres apart; and
- (d) located at no less than 100 millimetres above the *finished grade*.

5.21 Masonry: Where a *pool enclosure* is made of masonry materials, it shall be *constructed* in accordance with the following specifications:

(1) it shall be of solid construction or masonry panels;

(2) it shall be *constructed* on a poured concrete footing located at a minimum depth of 1.2 metres below *finished grade*;

(3) all openings in the masonry panels shall not exceed 89 millimetres in width; and

(4) it shall comply with the provisions of the *Building Code Act*.

## Gates

5.22 Unless otherwise approved by the *Chief Building Official*, every *pool enclosure* shall have a gate that is:

- (1) made of chain link, wood, metal materials or precast lightweight concrete panels;
- (2) a minimum *height* of 1.2 metres above *finished grade*, and a maximum *height* equal to the *height* of the *fence* included as part of the *pool enclosure*;
- (3) supported by hinges; and
- (4) equipped with a self-closing, self-latching device located on the inside of the gate, at or near the top of the gate.

5.23 The *owner* shall keep the gate closed and locked at all times.

5.24 The *owner* shall, at all times, maintain the gate and the self-closing, self-latching device on the gate in good repair.

## **Exemptions**

5.25 Notwithstanding any other provision of this By-law, a *pool enclosure* is not required for:

- (1) an above-ground *swimming pool* with a deck that has:
  - (a) a minimum height of 1.2 metres above *finished grade*;
  - (b) a *guard* complying with the *Ontario Building Code*;
  - (c) all structures below the deck with a smooth surface; and
  - (d) steps which swing up to close the top *guard* with a locking device which secures the steps in a stationary position as a gate; or
  - (e) stairs with a protective *guard* acting as a gate in accordance with Sections 5.22 through 5.24; the distance between the lowest point of the gate and the deck shall not exceed 100 millimetres;
- (2) an above-ground *swimming pool* that:
  - (a) has smooth-facing walls in excess of 1.2 metres in height above *finished grade*; and
  - (b) is manufactured so that there is no access to the above-ground pool except by means of steps which swing up into a locked position, or which are removed when the pool is not in use;
- (3) any hot tub, whirlpool or spa which is equipped with a substantial hard cover that is locked to ensure that the cover cannot be removed and, the locked cover shall be equipped whenever the hot tub, whirlpool or spa is not in use.

## **Inspections**

5.26 Every *owner*, having submitted a *pool enclosure permit* application, shall schedule an inspection of the *swimming pool* and the *pool enclosure* with the *Chief Building Official* or appropriate *Town designate*:

- (1) at the completion of the construction of the prescribed *pool enclosure*; and
- (2) prior to the *swimming pool* being filled with water.

5.27 For the purposes of Section 5.26 of this By-Law, being “filled with water” shall mean containing or holding water exceeding 610 millimetres in depth, at any point.

## **Application and Securities**

5.28 An application for a *pool enclosure permit* shall be submitted to the *Chief Building Official* on the application form prescribed by the *Town* and shall only be deemed to be complete and ready for a review if it includes:

- (1) a title search;

- (2) two copies of a site plan, drawn to scale and fully dimensioned showing the:
- (a) *lot* on which the *pool enclosure* is to be *constructed*;
  - (b) location of all existing and proposed buildings, structures and landscaping;
  - (c) location, dimensions and maximum depth of the *swimming pool*;
  - (d) location of any equipment related to the *swimming pool*;
  - (e) location of any service metres;
  - (f) location of any building entrances on the *lot*;
  - (g) *heights* of all sections of the *pool enclosure*;
  - (h) setback distance from the water's edge to the *pool enclosure*;
  - (i) distance from the *pool enclosure* to all *lot lines*, buildings, structures and landscaping;
  - (j) location of any easement on the *lot*; and
  - (k) location of any proposed changes to the grading or drainage patterns on the *lot*;
- (3) two copies of all plans, elevations and specifications drawn to scale and fully dimensioned, showing sufficient detail to determine compliance with the provisions of this By-law;
- (4) any other material deemed necessary by the *Chief Building Official*;
- (5) payment of the fee as outlined in the *Town's Fees By-law*.

5.29 Prior to the issuance of a *pool enclosure permit*, the *Chief Building Official* may require that the applicant:

- (1) provide security, in a form and amount determined by the *Chief Building Official*, to secure the performance of any work necessary:
  - (a) to reinstate the lands disturbed by the installation of the *swimming pool* and the *pool enclosure*;
  - (b) to repair any lands or buildings owned by the *Town* damaged by the installation of the *swimming pool* or *pool enclosure*; and
  - (c) to comply with any conditions of the *pool enclosure permit*;
- (2) provide consent in writing to the entry by the *Town* upon the lands where the work is to be, or was, performed in order that the *Town* may:
  - (a) reinstate the lands disturbed by the installation of the *swimming pool* and *pool enclosure*;
  - (b) repair any *Town* lands or buildings damaged by the installation of the *swimming pool* and *pool enclosure*; and
  - (c) carry out any outstanding conditions of the *pool enclosure permit*.

## **PART 6 – General Provisions**

### **Sight Triangles and Visibility**

- 6.1 Within a *sight triangle*, no *fence* or *privacy screen* shall be *constructed* so that the top exceeds 1 metre in *height* above the elevation of the adjacent *streets*.
- 6.2 No *fence* or *privacy screen* shall be *constructed* which, by reason of its location, design or materials, obstructs the visibility of motorists or pedestrians, traffic sightlines or which obstructs or detracts from the visibility or effectiveness of any traffic sign or control device.
- 6.3 Where the outside storage of goods, materials and equipment is permitted in accordance with the *Zoning By-law*, such goods, materials and equipment shall be screened by a *fence* which is effective to avoid an unsightly condition deleterious to the neighbouring environment.

### **Fences on Town Lands**

- 6.4 No *fence* or *privacy screen* shall be *constructed* on any lands owned by the *Town*, which includes but is not limited to any *street* or road allowance, opened or unopened, any *Town* right-of-way or *Town* easement.
- 6.5 Where a *fence* or *privacy screen* abuts *Town* owned land, that portion of the *fence* or *privacy screen* shall not include a gate.

## **Hazardous Fences**

- 6.6 No *privacy screen* shall be electrified or include any barbed wire or similar sharp material capable of causing injury.
- 6.7 No *fence* shall include any barbed wire, or similar sharp material capable of causing injury, with the exception that a *fence* may include barbed wire where such a *fence* is *constructed* on a *lot* which is *zoned* agricultural or rural and is actively being used for an agricultural purpose.
- 6.8 Notwithstanding Section 6.7, no *fence* shall include any barbed wire, or similar sharp material capable of causing injury, if located on a *lot* that abuts a residential *zone*.
- 6.9 An *electrical fence* shall only be located on a *lot* within an agricultural or rural *zone* that is actively being used for an agricultural purpose and every *electrical fence* shall be in accordance with the following provisions:
- (1) an *electrical fence* shall have a maximum 12 volt charge;
  - (2) an *electrical fence* shall be designed solely to contain animals;
  - (3) at 15 metre intervals an *electrical fence* shall have warning signs which indicate that the *fence* carries electricity; and
  - (4) an *electrical fence* shall be located 0.3 metres inside of a *lot line*.

## **Maintenance Standards**

- 6.10 Every *fence, privacy screen and noise attenuation barrier* shall be *constructed* and maintained to ensure:
- (1) that it does not cause or create an unsightly appearance;
  - (2) that it is structurally sound and upheld in a vertical position;
  - (3) that it is kept in a state of good repair and free of any safety hazards; and
  - (4) that it does not have affixed to it any signs or posters and at all times shall be kept clean of any graffiti.
- 6.11 Notwithstanding Section 2.3, where fifty percent (50%) or more of any *fence* or *privacy screen* is to be replaced or repaired, or in the opinion of the *Director*, a *fence* or *privacy screen* is substantially replaced or repaired, the *fence* or *privacy screen* shall meet the requirements of this By-law.
- 6.12 Where a portion of a *fence* or *privacy screen* is replaced or repaired, similar materials to that used in the original *fence* or *privacy screen* shall be used.
- 6.13 No *fence* or *privacy screen* shall be used as a support for any structure, object or thing that is, or is capable of, causing force to be exerted against or upon such *fence* or *privacy screen*.

## **PART 7 – Administration**

- 7.1 The *Director and Town designates* shall be responsible for the administration and enforcement of this By-law with the exception that the *Chief Building Official* and *Town designates* shall be entirely responsible for the administration and enforcement of Part 5.
- 7.2 Where the status of any structure or *yard* is in question, the *Director* shall decide if such a structure constitutes a *fence, privacy screen* or *noise attenuation barrier* and, in the case of a *yard*, whether such a *yard* constitutes a *front yard, interior side yard, exterior side yard* or *rear yard*.
- 7.3 The *Director* is hereby delegated the authority to administer the variance process as outlined herein.
- 7.4 The *Chief Building Official* is hereby delegated the authority to provide an approval in accordance with Part 5 of this By-law.

## Variance Process

- 7.5 Where a proposed or existing *fence* or *privacy screen* is not in compliance with this By-law, the *owner* of the *lot* on which the *fence* or *privacy screen* is or is proposed to be *constructed*, or an authorized agent of the *owner*, may request a variance from any of the applicable provisions of this By-law.
- 7.6 A request for a variance shall be submitted to the *Director* on the application form prescribed by the *Town* and shall only be deemed to be complete and ready for a review by the *Director* if it includes:
- (1) the name, address and contact information of the applicant;
  - (2) the address of the *lot* germane to the variance request;
  - (3) reference to the specific Section(s) of the By-law from which the variance is sought;
  - (4) a detailed description explaining why the applicant requires the variance;
  - (5) a description of the *fence* and/or *privacy screen* including the dimensions and the specifications of the construction and installation;
  - (6) a survey of the *lot* identifying the location of the *fence* and/or *privacy screen*;
  - (7) a site plan of the *lot* identifying the location of the *fence* and/or *privacy screen*;
  - (8) any other material deemed necessary by the *Director* to evaluate the request; and
  - (9) payment of the non-refundable fee as outlined in the *Town's Fees By-law*.
- 7.7 Upon receipt of a complete application, the *Director* shall provide notice of the variance request to all adjacent property *owners* whose *lots* directly abut any portion of the *lot* which the application pertains to. Notice shall be delivered to the adjacent *owners*:
- (1) personally, with service deemed effective on the date given;
  - (2) by posting the notice in a conspicuous location on their *lot*, with service deemed effective on the day after posting; or
  - (3) by registered mail, with service deemed effective on the fifth (5<sup>th</sup>) day after mailing.
- 7.8 The *Director* is authorized to approve or refuse a request for a variance from the provisions of this By-law. A request may be approved by the *Director* in whole or in part with terms and conditions as deemed necessary.
- 7.9 In considering a request for a variance, the *Director* shall have regard to the following:
- (1) whether it is in accordance with the general intent and purpose of the By-law;
  - (2) if approved, would the resulting *fence* or *privacy screen* be in keeping with the surrounding area and would there be any negative impact on adjacent residents;
  - (3) are there any special circumstances and would strict application of the provisions of this By-law result in unnecessary difficulty or hardship for the applicant; and
  - (4) would approval of the variance result in any impacts to the health, safety or welfare of the public.
- 7.10 The decision of the *Director* shall be deemed final, without any further right of appeal.

## **PART 8 – Enforcement**

### **Powers of Entry and Inspection**

- 8.1 Any *Town designate* may at any reasonable time enter upon any land for the purpose of carrying out an inspection to determine whether the following are being complied with:
- (1) this By-law;
  - (2) any direction or order under this By-law;
  - (3) any condition applied to a variance or on a *pool enclosure permit* under this By-law; and
  - (4) an order issued under Section 431 of the *Municipal Act*.
- 8.2 Submission of an application for a *pool enclosure permit* or variance is deemed to be the consent of the *owner* for any *Town designate* to enter at any reasonable time onto the *lot* or any lands relevant to the application for the purpose of carrying out an inspection.
- 8.3 Where an inspection is conducted in accordance with Part 8 of this By-law, any *Town designate* may:
- (1) require the production of documents and things for review that may be relevant to the inspection;
  - (2) inspect and remove documents or things which may be relevant to the inspection for the purpose of making copies;
  - (3) require information from any *person* concerning a matter related to the inspection, including but not limited to name(s), address(es), contact information, and proof of identity or other identification; and
  - (4) alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 8.4 No *person* shall hinder or obstruct, or attempt to hinder or obstruct, any *Town designate* from exercising any power or authority, or performing a duty as permitted under this By-law.
- 8.5 No *person* shall decline or neglect to give, produce or deliver any access, information, document or other thing that is requested by any *Town designate* pursuant to this By-law.
- 8.6 Every *person* from whom information, or any other thing, has been requested in relation to an inspection conducted under this By-law shall identify themselves to any *Town designate* and failure to identify shall constitute hindering and/or obstructing under Section 8.4.

### **Orders**

- 8.7 Where a *Town designate* is satisfied that a contravention of this By-law, or a *pool enclosure permit* or variance issued pursuant to this By-law, has occurred, the *Town designate* may make an order requiring the *person* who caused or permitted such contravention, or the *owner* of the land upon which the contravention occurred, to discontinue the contravening activity and/or to correct the contravention.
- 8.8 An order pursuant to Section 8.7 shall set out the following:
- (1) the municipal address and/or the legal description of the land or *lot* on which the contravention occurred;
  - (2) reasonable particulars of the contravention;
  - (3) what is required of the *person* subject to the order to bring the contravention into compliance;
  - (4) the date by which there must be compliance with the order; and

(5) notice that if compliance is not achieved by the prescribed date, the *Town* may do the work and expense the cost in accordance with Section 8.12.

8.9 An order may be delivered:

- (1) personally, with service deemed effective on the date given;
- (2) by pre-paid ordinary mail, with service deemed effective on the fifth (5<sup>th</sup>) day after mailing;
- (3) by registered mail, with service deemed effective on the fifth (5<sup>th</sup>) day after mailing;
- (4) by placing the order in the mailbox or other depository ordinarily used for mail, with service deemed effective on the fifth (5<sup>th</sup>) day after placing or depositing the order; and/or
- (5) by posting the order in a conspicuous location on the land or *lot* on which the contravention occurred, with service deemed effective on the day after posting.

8.10 A *Town designate* may enter upon the land for the purpose of serving an order pursuant to Section 8.9.

8.11 Any *person* to whom an order is issued shall comply with the order.

### **Remedial Action and Cost Recovery**

8.12 Wherever this By-law, or an order issued under this By-law, directs or requires any matter or thing to be done by any *person* within a specified time period, in default of it being done by the specified time period, remedial action may be initiated by the *Director, Chief Building Official* or a *Town designate*. The *Town* may recover, from the *person* directed or required to do the matter or thing, the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

8.13 For the purposes of taking remedial action under Section 8.12, the *Town*, its Staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

### **Infractions and Penalties**

8.14 Every *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 by the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

8.15 In addition to Section 8.14 of this By-law, any *person* who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act*, upon conviction is liable, pursuant to the fine provisions of the *Municipal Act* to a fine as follows:

- (1) to a minimum fine of \$500 and to a maximum fine of \$100,000;
- (2) for each day or part of a day that the offence continues, to a minimum fine of \$500 and a maximum fine of \$10,000, and the total of all daily fines for the offence is not limited to \$100,000; and
- (3) in the case of multiple offences, for each offence included in the multiple offence, to a minimum fine of \$500 and a maximum fine of \$10,000, and the total of all fines for each included offence is not limited to \$100,000.

8.16 If any Section of this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the Court in which the conviction has been entered and any Court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the *person* convicted.

**Part 9 - Severability**

9.1 Should any Section, Subsection, clause, paragraph or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the provision so declared to be invalid.

**Part 10 – Transition**

10.1 By-law 2005-36, By-law 2016-091, and all amendments thereto shall be repealed upon this By-law coming into effect.

10.2 This By-law shall come into full force and effect on January 1, 2018.

**Enacted by the Town of Caledon Council this 7<sup>th</sup> day of November, 2017.**

“Allan Thompson”

---

Allan Thompson, Mayor

“Carey deGorter”

---

Carey deGorter, Clerk