

CORPORATION OF THE TOWN OF NEWMARKET

BYLAW NUMBER 2000-63

A BYLAW FOR PRESCRIBING THE HEIGHT AND DESCRIPTION OF FENCES WITHIN THE TOWN OF NEWMARKET.

BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

1. In this bylaw:

"Accessory Building or Structure" means a detached building or structure that is not used for human habitation, but the use of which is naturally and normally incidental to, subordinate to or exclusively devoted to, a principal use or building and that is located on the same lot therewith.

"Building, Primary" means any building or structure that is designed or constructed to be used as the main building on a lot and does not include accessory structures or buildings.

"Division Fence" means a fence marking the boundary between abutting parcels of land.

"Fence" means any structure constructed of building materials designed for exterior use including but not limited to: posts, boards, panels, pilings, rails, wire, chain link, masonry or similar materials or any combination thereof used to define a property boundary or to define any outdoor area. Notwithstanding the foregoing, manufactured chipboard, waferboard, plywood or similar manufactured wood products are not included as approved fencing materials.

"Hedge" means a boundary formed by closely growing bushes trees or shrubs.

"Height" means the total height at any point along a fence measured from the highest level of grade on either side of the fence at any point along the fence from a point that is less than 0.6 metres (2 feet) from the fence and "height" includes the posts, rails and any decorative "lattice" or similar form of fence topping. In the case of a fence located on the 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.

"Owner" means an owner, lessee, tenant, mortgagee in possession and/or the person in charge of any property.

"Person" means an individual, firm, corporation, association or partnership.

"Yard" means an uncovered area on a lot appurtenant to a main building. In determining yard measurements the minimum horizontal distance from the respective lot line shall be used.

"Yard, Exterior Side" means a side yard immediately adjacent to a street or a reserve abutting a street, extending from the front yard to the rear yard of any lot.

"Yard, Front" means, for the purposes of this bylaw, a yard extending across the full width of a property between the street line and the closest part of the front wall containing an entrance to the primary building but does not include the front wall of an attached garage. Where a property has frontage on two or more streets, the front yard shall be deemed to be that yard adjacent to the main front entrance to the building.

"Yard, Interior Side" means, for the purposes of this bylaw, the yard between the side lot line and any part of the primary building or structure extending from the front yard of the building to the rear yard of the building on a lot but does not include an exterior side yard.

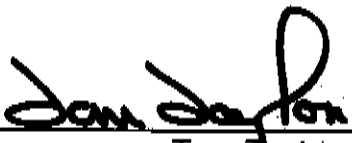
"Yard, Rear" means, for the purposes of this bylaw, the yard extending across the full width of the lot between the rear lot line and the closest part of the rear wall of the primary building or structure on the lot.

2.
 - a) No person shall use any barbed wire or other barbed or sharp materials in the construction of, or in connection with, any fence in the Town of Newmarket save and except any farmer, governmental authority or industry wishing to protect his or its property provided that such materials are used at a height of at least 1.80 metres (6 feet) above the finished grade.
 - b) No person shall construct a fence over a drainage easement or watercourse without constructing a watergate sufficient to ensure adequate drainage.
 - c) Notwithstanding any other provision of this bylaw, no person shall construct a fence so as to obstruct access to any hydro or water meter or meter reading device by any employee, officer or agent of Newmarket Hydro or the Town of Newmarket.
 - d) All watergates on fences shall at all times be kept free from obstruction by the Owner of such fence.
 - e) No person shall construct a division fence that is greater than 20 centimetres (8 inches) wide.
 - f) Every fence shall be constructed and maintained by its owner in a structurally sound condition and in good repair. For the purpose of this subsection, maintenance of a fence with a surface that has been previously painted, stained, varnished or which has been treated with other similar protective finishes shall be maintained so that such finish does not visibly deteriorate.
3. No person in a residential area shall erect or construct a fence in the Town of Newmarket in excess of the height requirements hereinafter set out:
 - a) Rear Yard: No fence erected in a rear yard shall exceed 1.8 metres (6 feet) in height provided that in the case of a corner lot, where a rear yard abuts a front yard or interior side yard of an adjacent lot, no person shall construct a division fence that exceeds 1.5 metres (5 feet) in height.

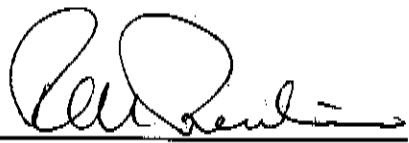
- b) Front Yard: No fence erected in a front yard shall exceed 1.0 metres (3 feet) in height.
 - c) Interior Side Yard: No fence erected in an interior side yard shall exceed 1.5 metres (5 feet) in height.
 - d) Exterior Side Yard: No fence erected in an exterior side yard shall exceed 1.5 metres (5 feet) in height provided that where a driveway adjacent to a fence which abuts a municipal sidewalk, the Owner shall ensure that there is a 4.5 metre (15 foot) sight triangle.
 - e) Notwithstanding clauses 3(a) to (d) no fence abutting a primary collector road or arterial road designated in the Town's Official Plan shall exceed 2.4 meters (8 feet) in height provided the design shall be of a decorative nature.
 - f) Where the rear or side yard of any lot abuts the side or rear yard of any other lot, any fence to be erected shall not exceed the requirement of any fence that may be erected on any such abutting lot, that is to say, the more restrictive provisions shall apply except in those situations set out in subparagraphs 3(a) and 3(d) above.
 - g) Council or a committee designated by Council may, by resolution, upon written application by an owner of land, authorize such exemptions from the height restrictions set out in this bylaw as it considers, in its sole discretion, advisable.
4. Hedges used as fences between established building lines and the street line or along a street line shall not be in excess of the limits herein provided save and except the provision for width set out in Section 2(e).
5. The owner of any fence or the agent or employee of such owner is permitted to enter upon the land adjoining the fence after having given at least 24 hours written notice of intention to enter to the adjoining property owner or tenant for the purpose of making necessary and appropriate repairs, alterations or improvements to such fence but only to the extent necessary to effect such repairs, alterations or improvements and provided that the adjoining land shall be left in the same condition it was prior to such entry.
6. Any person who contravenes any of the provisions of this bylaw, is guilty of an offence and upon conviction, is liable to a fine as provided for in the Provincial Offences Act, as amended from time to time.
7. If a fence becomes unsafe in the opinion of a by-law enforcement officer of the Municipality then the Municipality its officers, servants, employees or agents shall have the right to enter the property to pull down or repair or renew, at the expense of the owner of the fence, the unsafe fence.
8. Any action commenced prior to the passage of this bylaw shall continue under the provisions of Bylaw 1980-81 as amended.

9. Bylaws 1980-81 as amended by Bylaws 1992-148, 1994-5, 1994-34 and 1997-31 are hereby repealed except in relation to matters already commenced.

ENACTED THIS 15TH DAY OF MAY, 2000.



Tom Taylor, Mayor



Robert M. Prentice, Clerk