

THE CORPORATION OF THE TOWN OF MONO
BYLAW NUMBER 2020 – 36
A BYLAW TO PROVIDE FOR REGULATING AND GOVERNING
FENCES

1. RECITALS

- 1.1. Under s. 11 of the Municipal Act, 2001, S.O. 2001, c. 25 a municipality may pass by-laws governing, among other things, Structures, including fences and signs.
- 1.2. A municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence.

2. DEFINITIONS INTERPRETATION

- 2.1. This By-law may be cited as the “Fence By-Law”.
- 2.2. Definitions:
 - 2.2.1. **“Chief Building Official”** means the chief building official appointed by the Council for The Corporation of the Town of Mono and assigned officers of County of Dufferin Building Department.
 - 2.2.2. **“Construct a Fence”** means to construct, erect, build, install, alter, reconstruct or replace a fence, or cause or permit another person to do so, and “construct a pool fence” has a corresponding meaning.
 - 2.2.3. **“Construct a Pool”** means to excavate for, construct, build, erect, or replace a pool, or to cause or permit another person to excavate for, construct, build, replace or erect a pool.
 - 2.2.4. **“Designated Official”** means a By-law Enforcement Officer or Chief Building Official for the Town of Mono, or as otherwise determined by the Town.
 - 2.2.5. **“Division Fence”** means a fence marking the boundary between abutting parcels of land.
 - 2.2.6. **“Enclosure”** means a fence, wall or other structure, including doors and gates, surrounding a privately owned outdoor swimming pool to restrict access thereto.
 - 2.2.7. **“Fence”** means a barrier or partition which may or may not define the boundary line of a property but shall not include a building or structure as defined in the Ontario Building Code

Act or Regulations for the Town of Mono Zoning By-law. In the case of an outdoor swimming pool, a fence may include buildings or structures.

- 2.2.8. **“Fence of Open Construction”** means a fence constructed so that at least one third (1/3) of its vertical surface area is open space, enabling motorists and pedestrians to have a clear view through such fence.
- 2.2.9. **“Finished Grade”** means the level of the proposed or finished ground adjoining a swimming pool.
- 2.2.10. **“Height”** means the vertical distance measured between the average finished grade and the highest point of the fence. In the case of a fence located on top of a retaining wall or berm, height means the combined vertical distance between the lowest point of the retaining wall or berm and the highest point of the fence. In the case of a fence surrounding a Swimming Pool, the height shall be measured at the side of the fence which separates the pool from the remainder of the land.
- 2.2.11. **“Hot Tub”** means a hot tub, whirlpool or spa.
- 2.2.12. **“Lot”** means all contiguous land under one ownership.
- 2.2.13. **“Lot, Through”** means a lot which has street access on 2 or more street-lines, other than a corner lot.
- 2.2.14. **“Lot, Corner”** means a lot situated at the intersection of two or more streets, or a lot abutting on one or more parts of the same street, where such intersections have an angle of intersection of 135 degrees or less or located on the curve of a street where the angle of intersection of the projected tangents of the street-line does not exceed 135 degrees.
- 2.2.15. **“Lot Line”** means any boundary of a lot and the vertical projection thereof.
- 2.2.16. **“Lot Line, Front”** means the lot line that abuts the street except that:
 - a) In the case of a corner lot or through lot, the shorter lot line abutting a street shall be deemed the front lot line.
 - b) In the case of corner or through lots, with two lot lines of equal length abutting streets, the lot line that abuts the wider street shall be deemed to be the front lot line. Where the streets are of equal width, the lot line which abuts a County or Provincial Highway shall be deemed to be the front lot line. In the case of both streets being

under the same jurisdiction and of the same width, the Town shall designate which street line shall be the front lot line.

- 2.2.17. **“Lot Line, Rear”** means the lot line opposite to the front lot line except where the side lot lines intersect, as in the case of a triangular lot, in which case the rear lot line shall be represented by the point of intersection of the side lot lines.
- 2.2.18. **“Owner”** means an owner, lessee, tenant, mortgagee in possession and the person in charge of any property.
- 2.2.19. **“Perimeter”** means the water’s edge of a swimming pool.
- 2.2.20. **“Person”** shall include a Firm Partnership, Company, Corporation, or Contractor of Owner.
- 2.2.21. **“Public Highway”** means a street or highway being a Provincial highway or under the jurisdiction of the County of Dufferin or the Town of Mono or assumed by the municipality or being constructed under an Agreement with the Town.
- 2.2.22. **“Service Entrance”** means that entrance into a building which is normally used by persons entering such building for the purpose of delivering goods or rendering maintenance service as opposed to the main or principal entrance.
- 2.2.23. **“Sight Triangle”** means an area free of buildings or structures higher than 0.6 metres (2 feet) which is determined by measuring from the point of intersection of street-lines on a corner lot to a prescribed distance or by measuring from the point of intersection of any street-line and driveway to a prescribed distance.
- 2.2.24. **“Structure”** means anything constructed or erected which requires location on or in the ground or is attached to something having location on or in the ground but shall not include a fence, a retaining wall less than 0.6 metres (2 feet) in height, lawn ornament or a shrub or hedge.
- 2.2.25. **“Swimming Pool”** means a privately-owned outdoor body of water contained in part or in whole by artificial means, which holds water in excess of 0.6 metres (2 feet) and is designed or intended for the use of swimming, bathing, diving or wading, but does not include a pond or reservoir to be utilized for farming purposes, landscaping ponds and public swimming pools as defined by the Ontario Building Code.
- 2.2.26. **“Town”** means the Corporation of the Town of Mono.

- 2.2.27. **“Yard”** means an uncovered space on a lot lying between the lot line and the nearest part of any building or structure on the lot.
- 2.2.28. **“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.
- 2.2.29. **“Yard, Front”** means a yard extending across the full width of the lot between the Front Lot Line of the lot and the nearest part of the nearest building or structure on the lot.
- 2.2.30. **“Yard, Interior Side”** means the yard between the side lot line and the nearest part of any building or structure extending from the front yard to the rear yard of a lot.
- 2.2.31. **“Yard, Rear”** means the yard extending across the full width of the lot between the rear lot line of the lot and the nearest part of the nearest building or structure on the lot.
- 2.2.32. **“Yard, Side”** means the yard between the side lot line and the nearest part of any building or structure extending from the front yard to the rear yard of a lot.
- 2.2.33. **“Zone”** means a zone classification in a municipal By-law enacted pursuant to the Planning Act, as amended.

3. REGULATIONS

- 3.1. No person shall use any barbed wire or other barbed material of a nature which could be injurious to the public in the construction of, or in connection with, any fence in the Town, except where such a fence is located within an industrial zone and provided that such materials are used at a height of at least 1.8 metres (6 feet) above the finished grade.
- 3.2. No person shall permit a fence or any attachment to a fence to be used as a conductor of an electrical current except where such fence is located within an agricultural zone.
- 3.3. No person shall erect a fence on or in any municipal easement unless the fence is constructed in accordance with the applicable easement document. Furthermore, the Town shall not be responsible for any damage to a fence during the course of regular or emergency maintenance within such easement.
- 3.4. No person shall construct a fence that is greater than 0.6 metres (2 feet) in height along any point of a Sight Triangle and such fence must be of open construction.

- 3.5. No person shall erect a fence or other obstruction that will in any way obstruct the use of a fire hydrant or interfere with the operations of the Fire and Emergency Services. Not less than a one (1) metre clear space shall be maintained around the circumference of a fire hydrant.
- 3.6. No sheet metal or corrugated metal panels shall be used in any fence.
- 3.7. No person shall erect, own, maintain, or cause or permit the erection or maintenance of any fence that uses materials not usually intended for use in permanent fencing.

4. FENCES IN RESIDENTIAL ZONES

For any residential zone in the Town, the following shall apply.

- 4.1. Fences in Rear Yards. No fence erected in a rear yard shall exceed 1.8 metres (6 feet) in height.
- 4.2. Fences in Front Yards. No fence erected in a front yard shall exceed 1.0 metres (3.3 feet) in height and shall be constructed as a fence of open construction.
- 4.3. Fences in Interior Side Yards.
 - 4.3.1. No fence erected in an interior side yard shall exceed 1.8 metres (6 feet) in height.
 - 4.3.2. Notwithstanding Section 4.2, if the fence is a division fence, the subject fence may be erected to a point opposite the front corner of the building nearer the road.
- 4.4. Fences in Exterior Side Yards.
 - 4.4.1. No fences erected in an exterior side yard shall exceed 1.0 metres (3.3 feet) in height.
 - 4.4.2. Notwithstanding Section 4.4.1, if the residence is set back further than the minimum setback required by the current Zoning By-law, then a fence not exceeding 1.8 metres (6 feet) may be constructed if such fence meets minimum setbacks as required by the current Zoning By-law.
- 4.5. Line Fences Act.
 - 4.5.1. The provisions of the Line Fences Act, except for Section 20 thereof, shall not apply to any Residential Zone in the Town.
- 4.6. Division of Cost

- 4.6.1. Each of the owners of adjoining occupied Residential Zone lots are to repair, replace or maintain a just proportion of any division fence heretofore or hereafter erected which marks the boundary of their respective properties, or are to bear a just proportion of the cost of any work or erection, repair, replacement or maintenance which has been carried out.
- 4.6.2. Where owners of adjoining Residential Zone lots cannot agree on the type or kind of fence to be erected between them as provided by section 4 of this by-law, no contribution to the cost thereof is to be payable and the fence shall be located wholly on the land owned by the owner wanting to construct the fence.

5. FENCES AROUND SWIMMING POOLS

- 5.1. No person shall place water, or permit water to be placed, or permit water to remain in a swimming pool unless a fence has first been erected around such pool in accordance with the requirements of this By-law.
- 5.2. No person shall construct a fence around a swimming pool without the prior issuance of a permit for same by the Chief Building Official.
- 5.3. No part of any pool enclosure fence or gate shall consist of barbed wire or possess equivalent dangerous characteristics.
- 5.4. When a wall of a building forms part of the enclosure around a swimming pool, a main or service entrance to the building shall not be located within the enclosure.
- 5.5. Notwithstanding Section 5.4, a service entrance to the building may be located within the enclosure where:
 - a) The main entrance and all exterior service meters and intakes are located outside the enclosure, and
 - b) a sign is erected and maintained directing all service personnel to use the main entrance.
- 5.6. No person shall install or permit to be installed a swimming pool which adversely affects the drainage of the lot upon which it is installed or the drainage of any surrounding lot.
- 5.7. Fence Specifications. Every pool enclosure fence shall:
 - a) Have a height of not less than 1.5 metres (5 feet) above finished grade;

- b) be constructed of chain link, wood, metal, masonry or a combination of these materials;
- c) not encroach into the front yard;
- d) be erected not less than 4 feet from the perimeter of the swimming pool; and
- e) no projections, rail, attachment or any other bracing on the exterior of a pool enclosure shall be constructed in a manner which facilitates climbing.

5.8. Chain Link Fences. When the fence is a chain link fence, it shall be constructed in accordance with the following specifications.

- a) The fence shall be constructed of medium or equivalent grade pipe.
- b) The fence shall commence no more than 3 inches above the finished grade.
- c) The fabric shall be of 12 gauge galvanized material with 1 ½ inch maximum mesh.
- d) The line posts shall be:
 - (i) Galvanized,
 - (ii) capped,
 - (iii) a minimum of 1 1/16 inch outside diameter, and
 - (iv) set in concrete to 1.54 metres (60 inches) below finished grade.
- e) The terminal posts shall be:
 - (i) Galvanized,
 - (ii) capped,
 - (iii) a minimum of 1 7/8 inch outside diameter, and
 - (iv) set in concrete to 1.54 metres (60 inches) below finished grade.
- f) The maximum distance between every post shall be 8 feet.
- g) The top rail shall be:
 - (i) Galvanized, and
 - (ii) a minimum of 1 5/16 inch outside diameter.
- h) The wire along the bottom of the fence shall be:
 - (i) Galvanized, and

(ii) A minimum of 9 gauge thickness.

5.9. Wood Fences. When the fence is a wood fence or artificial wood material, it shall be constructed in accordance with the following specifications.

- a) The fence shall be constructed of wood which is:
 - (i) Pressure treated,
 - (ii) redwood or cedar,
 - (iii) any other type of wood which is naturally resistant to weathering over a prolonged period of time, or
 - (iv) any artificial wood material which is resistant to weathering over a prolonged period of time.
- b) The line posts shall be:
 - (i) A minimum of 4 inches by 4 inches in cross-section, and
 - (ii) in ground or set in concrete to a minimum of 1 metre (42 inches) below finished grade.
- c) The maximum distance between every post shall be eight feet.
- d) Horizontal frame members supporting vertical panels shall be installed between the posts.
- e) The horizontal frame members shall be a minimum of 2 inches by 4 inches and not less than 4 feet apart.
- f) The vertical panels shall be erected at a minimum of 3 inches above the finished grade; and
- g) The spacing between the vertical panels shall be a minimum of ½ inch and a maximum of 3 ½ inches.

5.10. Metal Fences other than Chain Link. When the fence is a metal fence and not a chain link fence, it shall be constructed in accordance with the following specifications.

- a) It shall be constructed of wrought iron, steel, aluminum or other similar metal material.
- b) The vertical posts shall be:
 - (i) A minimum of 12 gauge in thickness,
 - (ii) capped,
 - (iii) a minimum 1 ½ inch square tube,

- (iv) set in concrete to a minimum of 1.54 metres (60 inches) below finished grade, and
 - (v) a maximum distance of 8 feet apart.
 - c) The horizontal bars shall be:
 - (i) A minimum of 18 gauge thickness,
 - (ii) a minimum 1 inch square tube, and
 - (iii) spaced not less than 4 feet apart
 - d) The vertical bars shall be:
 - (i) A minimum of 18 gauge thickness,
 - (ii) a minimum ½ inch round or square tube,
 - (iii) spaced no more than 3 ½ inches apart, and
 - (iv) located at no less than 3 inches above the finished grade.
- 5.11. Masonry Fences. When the fence is constructed of masonry materials, it shall be constructed in accordance with the following specifications.
- a) It shall be of solid construction or masonry panels;
 - b) it shall be constructed on a poured concrete footing located at a minimum depth of four feet below finished grade unless otherwise specified by the Ontario Building Code;
 - c) it shall comply with the provisions of the Building Code Act and Ontario Building Code; and
 - d) all openings in the masonry panels shall not exceed 3 ½ inches.
- 5.12. Gates. Every pool enclosure fence shall have a gate:
- a) Constructed of chain link, wood, metal materials or precast lightweight concrete panels,
 - b) be a minimum height of 48 inches above finished grade and a maximum height equal to the height of the fence,
 - c) supported by hinges, and
 - d) equipped with a self-closing, self-latching device located on the inside of the gate at or near the top of the gate.

5.13. Hot Tubs.

- 5.13.1. Outdoor hot tubs need not be enclosed by a fence provided they are located above ground, enclosed by a solid, locked cover that is secured over the entire water surface when the area surrounding the hot tub is unattended by a supervisory adult.
- 5.13.2. No person shall have an outdoor hot tub unless fenced or enclosed by a solid locked cover that is secured.

5.14. Security.

- 5.14.1. The owner shall at all times maintain the self-closing, self-latching device on the gate in good repair.
- 5.14.2. The gate shall be kept closed and locked at all times when a competent person is not present supervising the swimming pool.

5.15. Exemptions. Notwithstanding any other provision of Section 5, no person is required to erect a pool enclosure:

- 5.15.1. In respect of an above-ground swimming pool with a deck which has a minimum height of 5 feet above finished grade provided that:
 - a) A railing having a minimum height of 32 inches is erected above the deck,
 - b) the railing is constructed of vertical standards with a maximum spacing of 4 inches,
 - c) all structures located below the deck have a smooth surface, and
 - d) steps are installed which swing up to close the top railing with a locking device to secure them in a stationary position as a gate.
- 5.15.2. In respect of an above-ground swimming pool that:
 - a) Has smooth-faced walls in excess of five feet in height, 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.
- 5.15.3. If the swimming pool is on a lot which has an area of 0.81 hectares (2 acres) or greater.

6. CONSTRUCTION AND MAINTENANCE

- 6.1. All fences shall be maintained in good repair.
- 6.2. All fences shall be constructed and maintained in a structurally sound condition.
- 6.3. All fences shall be maintained to prevent an unsafe or unsightly condition.
- 6.4. Where fifty percent (50%) or more of any fence is to be replaced or repaired, such replacement and or repairs shall meet the requirements of this By-law.

7. EXEMPTIONS

- 7.1. Notwithstanding the provisions of this By-law, nothing shall prevent the construction and maintenance of a fence constructed for public service by the Town or any other government authority.
- 7.2. If a person is required to erect a specified fence under a site plan agreement, a subdivision agreement, another Town By-law or any law, statute or regulation of a provincial or federal authority having jurisdiction, the fence is exempt from the provisions of this By-law with which it does not comply and shall be as set forth in the agreement, Town By-law, law, statute or regulation.
- 7.3. A person may request to have a fence considered by Council for a site-specific variance from any of the requirements of this By-law. A request for variance shall be in writing to the Clerk. When a request for a variance has been received, along with the required application fee, the Clerk shall report to Council for consideration. Council may enact a resolution to grant an exemption from the provisions set out in this By-law.
 - 7.3.1. Each variance will be examined, and a decision rendered on its own individual merit and shall not set precedent.
- 7.4. The requirements of this By-law do not apply to a fence that was constructed and maintained lawfully prior to the day on which this By-law came into force.
- 7.5. Where a conflict exists between this By-law and any other Town By-law, the provisions of this By-law shall prevail.

8. FEES

- 8.1. The fee for issuance of a permit under Section 5 of this By-law shall be in accordance with the Town's Chief Building Official.

- 8.2. The fee to make application for a site-specific variance under sub section 7.3 or an appeal under sub section 9.1.2 shall be \$850.
- 8.3. Any cost incurred by the Town in exercising its authority under this By-law, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of inspection or enforcement, shall be paid by the Owner of the property where the inspection or enforcement takes place.

9. ORDERS, OFFENCES AND ENFORCEMENT

- 9.1. Orders: If a Designated Official is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the Owner to discontinue the contravening activity and do work to correct the contravention. At a minimum, an Order shall set out:
 - a) Reasonable particulars of the contravention adequate to identify the contravention and the location of the property on which the contravention occurred;
 - b) the date and time by which there must be compliance with the Order; and
 - c) the work to be completed.
- 9.1.2. A person may appeal an Order on or before the date indicated that there must be compliance with the Order. An appeal of an Order shall be in writing to the Clerk. When an appeal of an Order has been received, along with the required application fee, the Clerk shall report to Council for consideration. Council may confirm, modify or quash the Order. Council may enact a resolution to grant an exemption from the provisions set out in this By-law.
- 9.1.3. Each appeal will be examined, and a decision rendered on its own individual merit and shall not set precedent.
- 9.2. Offences: Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine not exceeding five thousand dollars (\$5000.00) exclusive of costs for each offence as provided for in the Provincial Offences Act, R.S.O. 1990 c.P.33, as amended.
- 9.3. Enforcement: This By-law may be enforced by the Designated Official.

10. SEVERABILITY

- 10.1. If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.

11. EFFECTIVE DATE AND REPEALS

- 11.1. Effective Date: This By-law shall come into force on the date of its final passing.
- 11.2. Repeals: By-law 2011-46, Being a By-law Relating to Fences Enclosing Privately Owned Outdoor Swimming Pools and By-law 2019-52, Being a By-law to Amend By-law 2011-46 are hereby repealed.

BYLAW READ A FIRST TIME ON THE 9TH DAY OF JUNE 2020.

BYLAW READ A SECOND TIME ON THE 8TH DAY OF SEPTEMBER 2020.

BYLAW READ A THIRD TIME ON THE 8TH DAY OF SEPTEMBER 2020.

Original signed by:

Laura Ryan, Mayor
Mark Early, CAO/Clerk

The following diagrams do not form part of the bylaw and are presented for information only



Figure 1 - Exterior Side Yard with Minimum Setback, 1 metre high fence

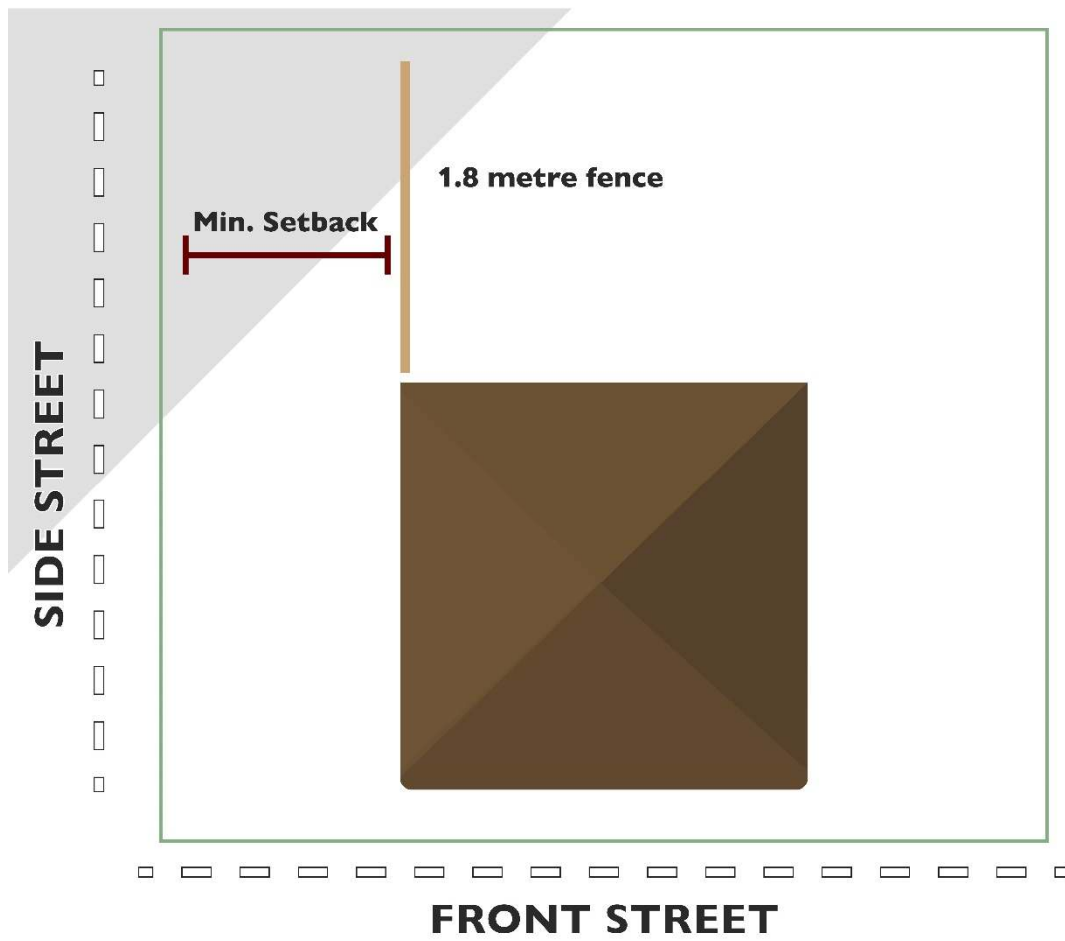


Figure 2 - Exterior Side Yard with Minimum Setback, 1.8 metre high fence



Figure 3 - Exterior Side Yard that Exceeds Minimum Setback, 1.8 metre high fence

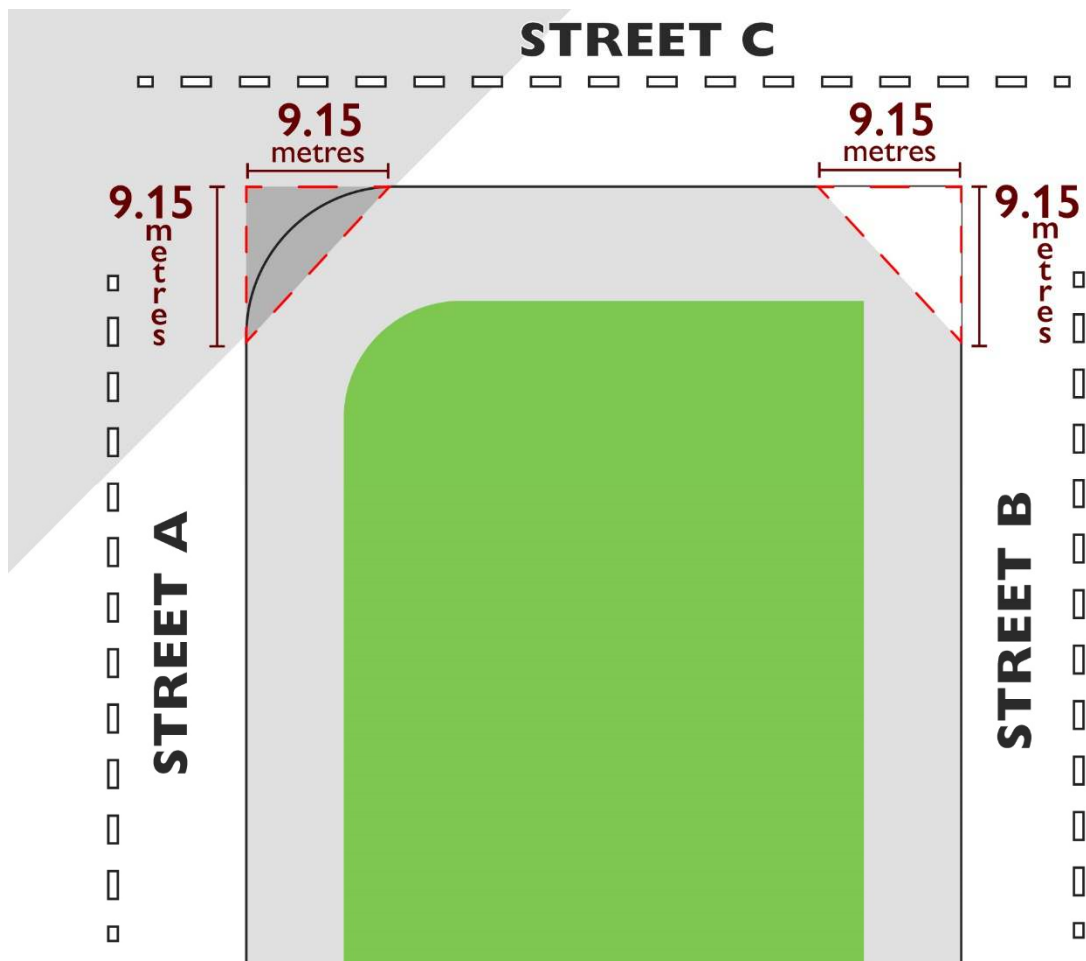


Figure 4 - Sight Triangle