

CITY OF NIAGARA FALLS

By-Law No. 2005 -70

FENCE BY-LAW

A by-law to prescribe the height and description of lawful fences.

WHEREAS section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes a municipality to pass by-laws respecting fences.

WHEREAS this by-law consolidates various amendments to the Fence by-law for ease of use.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

Definitions

1. In this by-law:
 - (a) "Chief Building Official" means the Chief Building Official appointed by the Corporation of the City of Niagara Falls;
 - (b) "City" means The Corporation of the City of Niagara Falls;
 - (c) "corner lot" means a lot or parcel which is situated at the intersection of and abutting upon two or more streets or parts of the same street provided that the angle contained by two of such lots' or parcels' adjacent lot lines that abut the street or streets is not more than 135 degrees;
 - (d) "Council" means the Council of The Corporation of the City of Niagara Falls;
 - (e) "front lot line" means, in the case of an interior lot, the line dividing the lot or parcel from the street; where the lot or parcel is a corner lot, the shorter lot line abutting a street shall be deemed to be the front lot line and the longer lot line abutting a street shall be deemed to be an exterior side lot line, provided that, where a corner lot has the same dimensions on the two streets upon which it abuts, the lot line abutting the street upon which the building or structure erected or to be erected has its principal entrance shall be deemed to be the front lot line; where the lot or parcel is a through lot, the lot line where the principal access to the lot or parcel is provided shall be deemed to be the front lot line;
 - (f) "front yard" means a yard extending across the full width of any lot or parcel between the front lot line and the nearest wall of any building or structure on the lot or parcel;
 - (g) "grade level of roadway" means the grade level of the centre of the traveled portion of any roadway;

- (h) "highway" includes a common and public highway, street, avenue, lane, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- (i) "interior lot" means a lot or parcel other than a corner lot;
- (j) "intersection" means the area embraced within the prolongation or connection of the lateral boundary lines of the roadway of two or more highways which join one another at an angle, whether or not one highway crosses the other;
- (k) "lawful fence" means any fence, wall, other than a wall of a building, hedge or gate which separates or divides any parcel of land or part thereof from any other parcel of land or part thereof, immediately adjacent thereto, which is erected and maintained in accordance with the provisions of this By-law;
- (l) "lot line" means any boundary of a lot or parcel;
- (m) "municipality" means the geographical area in respect of which the City has jurisdiction;
- (n) "rear lot line" means the lot line farthest from and opposite to the front lot line;
- (o) "rear yard" means a yard extending the full width of any lot or parcel from the rear lot line to the wall of any building or structure nearest to the front lot line;
- (p) "side lot line" means a lot line other than a front lot line or a rear lot line;
- (q) "snow fence" shall mean a light fence of lath and wire; and
- (r) "through lot" means an interior lot that abuts more than one street.

Delegated Powers

- 2. (1) The Chief Building Official is hereby delegated the power to grant minor variances to this By-law subject to the following criteria:
 - (i) the general purpose and intent of this By-law are maintained; and
 - (ii) the variance is minor in nature.
- (2) The decision of the Chief Building Official shall be in writing, setting out reasons therefor, and sent to the requester of the minor variance and to every owner of land who shares the fence with the requester.
- (3) The decision shall state that it does not take effect for thirty days from the date it is given and that any person who has an interest in the minor variance may appeal the decision

to Council within thirty days after the decision is given, which appeal must be in writing.

Lawful Fence

3. No person shall erect, or caused to be erected, or maintain or cause to be maintained, any fence within the municipality unless such fence is a lawful fence.

Damaged Fences

4. No fence shall be maintained, or caused to be maintained, in a damaged or disrepaired state of condition by reason of fire, decay or otherwise and all fences shall be constructed or caused to be constructed in a sound manner and shall be straight and true.

Fence Height

5. No fence of a height greater than 75 centimetres above the grade level of any adjacent highway shall be erected or maintained, or caused to be erected or maintained, within 9 metres of any highway intersection.

Front Yard

6. (1) Subject to section 5 of this By-law, no fence of a height greater than 1 metre above the adjoining ground level, shall be erected or maintained, or caused to be erected or maintained, in any front yard, provided, however, that the portion of any such fence erected or maintained along the side or rear lot line of the rear yard of any adjoining property may be of a height not greater than 2.5 metres.

(2) Where a fence is erected on a terrace in a front yard, the height of such fence shall be calculated as the combined height of the fence and the terrace above the adjoining ground level.

Rear Yard

7. Subject to section 5 of this By-law, no fence of a height greater than 2.5 metres above the adjoining ground level, shall be erected or maintained, or caused to be erected or maintained, in any rear yard, provided, however, that the portion of any such fence erected or maintained along the side lot line of the front yard of any adjoining lot shall not be of a height greater than 1 metre unless such fence is erected or maintained in the rear yard of a corner lot along the side lot line of the front yard of an adjoining property, in which case the fence may be erected or maintained to a height not greater than 2.5 metres.

Commercial, Agricultural or Industrial

8. Subject to section 5, a fence not exceeding 2.75 metres in height above the adjoining ground level shall be permitted around the perimeter of any parcel of land used for commercial, agricultural or industrial purposes wherever such parcel does not abut a residential use.

Barbed Wire- Vehicle Tires

9. (1) No fence composed wholly or partly of barbed wire, other barbed material or vehicle tires shall be erected or maintained, or caused to be erected or maintained, within the municipality, provided, however, that barbed wire or other barbed material may be permitted along the top of any fence of a height greater than 2 metres enclosing land used for commercial or industrial purposes, wherever such land does not abut land used for residential purposes, and the manner of affixing such barbed wire or other barbed material is approved by the Chief Building Official.
- (2) This section shall not apply to barbed wire fences erected in agricultural areas for the purpose of confining livestock.

Snow Fence

10. No snow fence shall be erected or maintained, or caused to be erected or maintained, for a period exceeding six (6) consecutive months in any year within the municipality on land being used for residential or commercial purposes.

Along Highways

11. All fences erected along a highway or any part thereof shall be maintained and kept in a proper state of repair and condition in accordance with the provisions of this By-law.

City-Boards-Commission Fences

12. The provisions of this By-law shall not apply to any fence or other barrier wholly or partially enclosing lands owned and in use by the City or any Boards, Commissions or companies providing telephone, electric, water or gas service to the inhabitants of the municipality.

Enforcement

13. Every person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and upon conviction is liable to a fine as provided for under the provisions of the *Provincial Offences Act*.

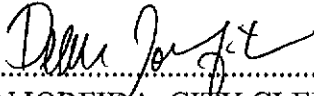
By-laws Repealed

14. By-law Nos. 77-75, 83-239, 91-11, 94-269 and 2004-042 are hereby repealed.

Short Title

15. The short title of this by-law is the *Fence By-law*.

Passed this second day of May, 2005.



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DEAN IORFIDA, CITY CLERK



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R.T. (TED) SALCI, MAYOR

First Reading: May 2nd, 2005.
Second Reading: May 2nd, 2005.
Third Reading: May 2nd, 2005.