



**OFFICE CONSOLIDATION**

**BY-LAW NUMBER 10545**

**THE FENCE BY-LAW**

NOVEMBER 25, 2009

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THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER 10545

A BY-LAW, AS AMENDED BY BY-LAW 10693, 10777, 11001, 2000-71, 2000-141, 2003-16, 2003-95 BEING A BY-LAW TO REGULATE THE ERECTION OF FENCES IN THE CITY OF WELLAND AND A BY-LAW TO REPEAL CITY OF WELLAND BY-LAW 5705 AS AMENDED

WHEREAS subsections 25, 26, 28 of Section 210 of the Municipal Act, Chapter M45, R.S.O. 1990 authorize the Council of a local municipality to (a) prescribe the height and description of lawful fences, (b) prescribe the height and description of fences along highways, and (c) regulate or prohibit barbed wire fences;

AND WHEREAS subsection 173 of Section 210 of the Municipal Act, Chapter M45, R.S.O. 1990 authorizes the Council of a local municipality to authorize the pulling down or repairing, at the expense of the owner, of any fence in a ruinous or dilapidated state which is unsafe;

AND WHEREAS subsection 4 of Section 314 of the Municipal Act, Chapter M45, R.S.O. 1990 authorizes the Councils of all municipalities to prohibit the building and maintaining of any fence on any highway;

AND WHEREAS the Council of the Corporation of the City of Welland deems it expedient to regulate the erection of fences in the City of Welland.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

1. This By-law may be referred to as The Fence By-law.

2. Definitions

For the purposes of this By-law all words shall have their normal and customary meaning save and except for those hereinafter defined;

2.1 "Chief Building Official" means the Chief Building Official for the City of Welland appointed by Council to The Ontario Building Code Act, or his designate;

2.2 "City of Welland" means the Corporation of the City of Welland;

2.3 "District or Zone" means the Zoning District or Zone specified in the applicable Zoning By-law of the City of Welland;

2.4 "Height" means the vertical distance measured from grade level at the base of a fence to the highest point of the fence;

2.5 "Lot Line, Front" means in the case of an interior lot, the line dividing the lot from the street. In the case of a corner lot, the shorter lot line abutting a street shall be deemed the front lot line and the longer lot line abutting a street shall be deemed an exterior side lot line. In the case of a through lot, or a corner lot whose exterior lot lines are the same length, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line;

2.6 "Lot Line, Rear" means the lot line farthest from the opposite to the front lot line;

2.7 "Lot Line, Exterior Side" means a lot line other than a front or rear lot line and which abuts a highway;

2.8 "Lot Line, Interior Side" means a lot line other than a front, rear or exterior lot line;

2.9 "Visibility Triangle" means an area on a corner lot within the triangular space formed by the street lines and a line drawn from a point in one street line to a point in the other street line, each such point being six (6) metres measured along the street line from the point of intersection of the street lines;

2.11 "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 any building or structure on the lot.

2.12 "Yard, Required Front" means the minimum required by City of Welland Zoning By-laws 2667 and 1538 (former Township of Crowland Zoning By-law), as amended.

3. General Provisions Applicable to All Fences

3.1 No person shall erect or maintain a fence on any highway in the City of Welland unless the

said fence is authorized by the Council of the City of Welland by way of an Encroachment Agreement with the City of Welland;

3.2 No person shall maintain a fence in a ruinous or dilapidated state and which is, in the opinion of the City Engineer or his/her designate, unsafe. The City Engineer or his/her designate is herewith authorized to remove or repair such fences, at the expense of the owner thereof;

3.3 No person shall erect or maintain any fence or hedge in a visibility triangle which is more than 1 metre in height, save and except for an open wire fence which does not obstruct vision through the said fence;

3.4 No person shall erect a fence unless it is constructed using new materials. Notwithstanding the foregoing, used chain link or page wire fencing may be reused in the construction of a fence as may split wooden rails.

4. Fence In Residential Districts/Zones

4.1 No person shall erect or maintain a fence adjacent to or on a rear lot line, an interior side lot line or an exterior side lot line which exceeds 2 metres in height;

4.2 Notwithstanding the foregoing, no person shall erect a fence in a required front yard which exceeds 1 metre in height.

4.3 No person shall erect a fence adjacent to or on a front lot line which exceeds 1 metre in height;

4.4 No person shall use barbed wire on any fence nor erect an electric fence in any Residential District or Zone.

5. Fences In Non-Residential Districts/Zones

5.1 No person shall erect or maintain a fence adjacent to or on a rear lot line, an interior side lot line, an exterior side lot line or a front lot line which exceeds 2.5 metres in height;

5.2 No person shall erect or maintain a fence constructed in whole or in part of barbed wire or other barbed materials except along the top of a fence and except that the barbed wire or barbed material is

at least 1.8 metres above the adjacent ground level;

5.3 Notwithstanding the foregoing, a fence, constructed in whole or in part of barbed wire, may be erected and maintained in an Agricultural or Rural Agricultural District/Zone;

5.4 Notwithstanding the foregoing, where a Non-Residential District or Zone abuts a Residential District or Zone, the provisions of this By-law governing fences in Residential Districts/Zones shall prevail.

5.5 Save in an Agricultural or Rural Agricultural District/Zone, no person shall erect an electric fence in any Non-Residential District/Zone.

6. Public Agencies Exempt

The provisions of this By-law shall not apply to the following public agencies:

- 1) The City of Welland
- 2) The Regional Municipality of Niagara
- 3) Any Department or Ministry of Federal or Provincial Government
- 4) Ontario Hydro
- 5) The Niagara South Board of Education
- 6) The Welland County Roman Catholic Separate School Board

7. That City of Welland 5705, 6388 and 6502 be and the same are hereby repealed.

8. Any person who contravenes this By-law is guilty of an offence and is liable, upon conviction, to a penalty in accordance with The Provincial Offenses Act.

9. Exceptions

9.1 Waterpoint Condos - Prince Charles Drive/Noise Barrier

Notwithstanding Section 4 of By-law 10545 a fence/noise barrier, not exceeding 2 metres in height, may be erected in the required front yard of lands described as Part of Lot 27, Concession 6 former Township of Crowland, now City of Welland, designated as Parts 1 to 8 inclusive on Reference Plan 59R-5824 and known municipally as Waterpoint Condos.

9.2 Towpath Village/Entrance Gates/Quaker Road and Hansler Road

- (a) Notwithstanding Section 4 of By-law 10545, a fence/entrance gate may be erected

in a front yard on the private lots on the east and west side of St. Lawrence Drive immediately abutting Quaker Road so long as the said gates do not exceed 2 metres in height to the top of the fence and not exceeding 2.4 metres in height to the top of any post or pillar.

- (b) Notwithstanding Section 4 of By-law 10545, as amended, a fence/entrance gate, may be erected in the front yard on private lands on the lots on the north and south side of St. Lawrence Drive, immediately abutting Hansler Road so long as the said gates do not exceed 1.9 metres in height to the top of the fence and not exceed 2.15 metres in height to the top of any pillar or post.

9.3 85 Aqueduct Street

Notwithstanding Subsections 2.9 and 3.3 of By-law 10545, as amended, the existing hedge located on lands known municipally as 85 Aqueduct Street on the west side of Aqueduct Street and the north side of Elizabeth Street is permitted to have a visibility triangle defined to points 3.6 metres measured along the street lines rather than 6.0 metres.

9.4 709 Niagara Street

Notwithstanding Subsections 5.1 and 5.4 of By-law 10545, as amended, a 10 metre long sound barrier fence is permitted to be erected to a height of 3.5 metres, and a 16 metre long sound barrier fence is permitted to be erected to a height of 4.0 metres, both such fences to be located on the lands known municipally as 709 Niagara Street, in accordance with an Environmental Noise Analysis prepared by Valcoustics dated June 11, 2002.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS 19TH DAY OF APRIL, 1995.

As Amended by: By-law 10693 passed December 5, 1995  
As Amended by: By-law 10777 passed June 4, 1996  
As Amended by: By-law 11001 passed June 3, 1997  
As Amended by: By-law 2000-71 passed June 6, 2000  
As Amended by: By-law 2000-141 passed September 19, 2000  
As Amended by: By-law 2003-16 passed February 18, 2003  
As Amended by: By-law 2003-95 passed June 17, 2003  
As Amended by: By-law 2009-130 passed September 15, 2009