

**THE CORPORATION**  
**OF THE**  
**TOWN OF NIAGARA-ON-THE-LAKE**  
**BY-LAW NO. 4778-14**

A BY-LAW TO PROVIDE UNIFORM STANDARDS FOR THE  
CONSTRUCTION OF FENCES IN THE TOWN OF NIAGARA-ON-THE-  
LAKE AND REPEAL BY-LAW 3408-99

**WHEREAS** under Section 98(1) of the Municipal Act, S.O. 2001, c 25 as amended, a local municipality may provide that the Line Fences Act does not apply to all or any part of the municipality;

**AND WHEREAS** under Section 98(2) of the Municipal Act, S.O. 2001, as amended states that despite a by-law passed under subsection (1), section 20 of the Lines Fences Act continues to apply throughout the municipality;

**AND WHEREAS** the Council of the Corporation of the Town of Niagara-on-the-Lake deems it advisable to pass a by-law regulating the erection and maintenance of fences within the municipality;

**AND WHEREAS** Section 45(3) of the Planning Act R.S.O. 1990 c. P. 13 provides that a council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provision of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so that empowered subsection (1) applies with necessary modifications;

**AND WHEREAS** the Committee of Adjustment is empowered by By-law No. 4777-14 to make decisions on fence variance applications.

**NOW THEREFORE** THE Council of the Corporation of the Town of Niagara-on-the-Lake enacts as follows:

1. **DEFINITIONS**

- (a) Adjoining Ground Level means the natural ground level immediately adjacent to the fence. Where the ground level is higher on one side of the lot line, the height of the fence shall be measured from the higher level.
- (b) Committee means the Committee of Adjustment.
- (c) Construct means to do anything in the erection, installation, extension or material alteration of a fence and construction shall have a corresponding meaning.
- (d) Corner Lot means a lot having two or more street lines intersecting at an angle of not more than 135 degrees.
- (e) Fence means any structure of posts, boards, wood, wire, plastic, concrete, stone, metal, hedge or any combination thereof which separates or purports to separate any parcel of land from the parcel of land immediately adjacent.
- (f) Front Lot Line means the lot line that divides the lot from the street and in the case of a corner lot the shortest street line shall be deemed to be the front lot line and the longest street line shall be deemed to be the side lot line.

- (g) Front Yard means a yard extending across the full width of a lot between the front lot line of such lot and the nearest part of any building or structure on such lot.
  - (h) Rear Yard means a yard extending across the full width of a lot between the rear lot line and the nearest part of the building on such lot.
  - (i) Sight Triangle means the triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, said points measured from the intersection of the street lines a distance equal to the sum of the front and side building setbacks but not greater than 12.0 meters.
  - (j) Side Yard means a yard extending from the front yard to the rear yard of a lot and from the side lot line of such lot to the nearest part of the building on such lot.
2. No person shall construct or permit to be constructed or maintained any fence within the Town of Niagara-on-the-Lake that does not conform to the requirements of this by-law.
3. All fences shall be maintained in a good state of repair and in a safe condition.
4. No person shall construct or permit to be constructed or maintained within the Town of Niagara-on-the-Lake any fence which is inherently dangerous.
5. **INTERSECTIONS AND CORNER LOTS**
- (a) No person shall construct or permit to be constructed or maintained any fence or hedge within a sight triangle that is more than 1.0 meter above the adjoining ground level.
  - (b) Where a driveway and a fence and/or a hedge run parallel to each other, no person shall construct or permit to be constructed or maintained a fence or hedge that is more than 1.0 meter above the adjoining ground level, from the street line to a point 4.5 meters back along the fence or hedge.
  - (c) No person shall construct or permit to be constructed or maintained any fence or hedge in a side yard that abuts a street that is more than 1.0 meter above the adjoining ground level.
6. **HEIGHT**
- (a) **FRONT YARD:** No person shall construct or permit to be constructed or maintained any fence or hedge that is more than 1.0 meter above the adjoining ground level, in a front yard.
  - (b) **SIDE AND REAR YARDS:** No person shall construct or permit to be constructed or maintained any fence or hedge that is more than 2.0 meters above the adjoining ground level, in a side or rear yard.
7. **COMMERCIAL AND INDUSTRIAL LANDS:** Notwithstanding the requirements of Section 6 of this by-law, a perimeter or screening fence of a maximum of 3.0 meters above the adjoining ground level may be constructed along the perimeter of lands used for commercial or industrial purposes.
8. **BARBED WIRE:** No person shall construct or permit to be constructed or maintained any fence composed wholly or partly of barbed wire or other barbed material in any residential area.

9. **POOLS:** Fences around swimming pools shall comply with the municipality's Pool By-law in effect at the time. In the case of any conflict, the more restrictive requirement shall apply.
10. **COMMITTEE OF ADJUSTMENT:**
- (a) Applications for fence variances shall be processed in accordance with Section 45 of the Planning Act with necessary modifications and the following exceptions:
    - i) Notice of hearing shall be given to every owner of abutting land by personal service, prepaid personal mail or electronically, where permitted.
    - ii) Appeals shall be to Council.
  - (b) The Committee may grant or deny a variance with respect to sections 3, 5 and 6 of this by-law. All decisions of the Committee shall be in writing and are revocable only by a motion of Council.
  - (c) The Committee shall act in accordance with the Term of Reference approved by Council.
11. **EXCEPTIONS:** None of the provisions of this by-law relating to the height of fences shall apply to land owned, leased or used by;
- (a) The Corporation of the Town of Niagara-on-the-Lake.
  - (b) Any local Board.
  - (c) Any telephone, hydro or gas company.
  - (d) Any department of the Federal, Provincial or Regional Government.
12. **PENALTIES:** Any person who contravenes any of the provisions of this by-law is guilty of an offence and is liable to prosecution under the Provincial Offences Act.
13. This by-law shall come into force and take effect on the passing thereof.
14. That By-law No. 3408-99 is hereby repealed in its' entirety.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 15TH DAY OF DECEMBER, 2014**

  
LORD MAYOR PAT DARTE

  
TOWN CLERK HOLLY DOWD