

CORPORATION OF THE CITY OF PORT COLBORNE BY-LAW NO. 1170/117/81

**A BY-LAW TO PRESCRIBE THE HEIGHT AND
DESCRIPTION OF LAWFUL FENCES IN THE CITY
OF PORT COLBORNE AND TO REPEAL BY-LAW
989/60/80**

WHEREAS it is deemed expedient to exercise the authority vested in the Council of the Corporation of the City of Port Colborne by Section 354 of the Municipal Act, R.S.O. 1970, Chapter 284, as amended, respecting fences;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF PORT COLBORNE ENACTS AS FOLLOWS:

1. DEFINITIONS:

(a) "Chief Official" means the Chief Building Official appointed by the Council for the purpose of the enforcement of this By-law in the City of Port Colborne and includes any designated representative.

(b) "Construct" means to do anything in the erection, installation or extension or material alteration of a fence, and "construction" has a corresponding meaning.

(c) "Corner Lot" means a lot having two or more street lines intersecting at an angle of not more than 135 o, provided that where the street lines of a lot are curbed, the angle of intersection of such street lines shall be deemed to be the angle formed by the intersection of the tangents to the street lines, drawn through the extremities of the interior lot lines, and the corner of the lot shall be deemed to be that point of inter-section of the said tangents.

(d) "Council" means the Council of the Corporation.

(e) "Corporation" means the Corporation of the City of Port Colborne.

(f) "Fence Construction" means any structure of posts and boards, wood, wire, plastic, concrete, stone, metal, hedge or combination thereof of approved fencing constructed of a strength that provides an adequate degree of safety along any highway or separating or purporting to separate any parcel of land from the parcel of land immediately adjacent thereof.

(g) "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 a side lot line.

(h) "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.

(i) "Grade Level of the Street" shall mean the grade level of the centre of the travelled portion of any street.

(j) "Municipality" means the Municipality of the City of Port Colborne.

(k) "Owner" means a person, firm or corporation controlling the property under consideration.

(l) "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, each such point being a total of the combination of the front and flanking yard building set-backs, but not exceeding 15 metres from the point of intersection of the

street lines measured along the said street lines,
provided that where the two street lines do not intersect at
a point, the point of intersection of the street lines shall be
deemed to be the intersection of the projected tangents to
the street lines drawn through the extremities of the
interior lot
lines.

(m) "Street" means and includes a common and public highway,
roadway, avenue, lane, parkway, driveway, square
or place, bridge,
viaduct, trestle or by-law designed and intended for the use
of the general public for the passage of vehicles.

(n) "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 any building or structure on such
lot.

(o) "Side Yard - Interior" means a side yard other than an
exterior side yard

(p) "Side Yard - Exterior" means a side yard immediately
adjoining a public street.

(q) "Unsafe" when used in respect of "fences" means in a
condition that could be hazardous to persons in the
normal use of the building.

2. ADMINISTRATION

(a) This by-law shall be enforced by the Chief Building
Official and/or designated representative.

(b) No person(s) shall construct or permit the erection of any fence or other non-natural barrier without first applying for and obtaining a permit to do so from the Building Department through the Chief Official.

(c) Every application shall be accompanied by two (2) copies of:

(i) A Site plan showing the horizontal dimensions of the fence and its precise location with respect to the boundaries of the land on which it is to be erected.

(ii) The details and description of the fence to be erected.

(d) For the purposes of enforcement of the Line Fences Act, R.S.O., 1979, c. 31, and this By-law, the requirements of this By-law shall not apply to the erection, construction or maintenance of any fence on land zoned Agricultural in the Restricted Area (Zoning) By-law of the Municipality in effect at the time.

3. PERMIT FEES

Every person shall pay a fee of \$5.00 for the first \$1,000.00 and \$2.00 per each subsequent \$1,000.00 or part thereof of the complete cost of the installation of the fence.

4. FENCES IN RESIDENTIAL AREAS

No person(s) shall construct or permit the erection in any area zoned residential by the Municipality's Restricted Area (zoning) By-law in effect at any time, of any fence except a fence if approved fence construction as defined in this By-law.

5. INHERENTLY DANGEROUS FENCES

(a) All fences along streets shall be maintained in a good state of repair and in a safe condition.

(b) No person(s) shall construct or permit to be erected or maintained in the City of Port Colborne, any fence which is inherently dangerous. Without restricting the generality of the foregoing any fence which is less than 0.5 metres in height above the level of the nearest adjacent sidewalk, or in the absence of any sidewalk above the adjoining ground level, shall be deemed to be inherently dangerous.

6. FENCES & HEDGES AT INTERSECTIONS & CORNER LOTS

(a) No person(s) shall construct or permit to be erected or maintained within a sight triangle, any fence, hedge, or other non natural barrier more than 0.75 metres in height above the grade level of the street. (See Schedule "A")

(b) Where a driveway and fence/hedge run parallel to each other no person(s) shall construct or permit to be erected or maintained a fence or hedge to a greater height than 1.0 metre (1.0m) in height of the grade level of the street. Fifty (50%) percent of the fence and/or hedge shall also remain open so as not to obstruct vision of vehicles leaving or entering a driveway. (See Schedule "A")

(c) Notwithstanding subsection 7 (b) no person(s) shall construct or permit to be erected or maintained any fence or hedge in any side yard which abuts a street of a height greater than 1 metre (See Schedule "A")

(d) Notwithstanding subsection 6(c) no person shall construct or permit

to be erected or maintained any fence or hedge greater than 2m in any exterior side yard except where the said fence is set back a minimum of 3m from the exterior side lot line or, where a sidewalk exists parallel to the fence line, a minimum of 3m from the near side of the sidewalk.

7. HEIGHT

- (a) FRONT YARD: Except as otherwise provided herein, and subject to Section 6. (a) and 6. (b) of this By-law, no person shall construct or permit to be erected or maintained any fence or hedge in any front yard of a height greater than 1.0 metre above the grade level of the street on which such lot fronts or abuts between the setback line and the street line. (See Schedule "A")
- (b) SIDE & REAR YARD: Except as otherwise provided in this By-law, no person shall construct or permit to be erected or maintained any fence or hedge in any rear and/or side yards from the rear lot line to the front setback line of a height greater than 2.0 metres above the adjoining ground level. (See Schedule "A")

8. COMMERCIAL & INDUSTRIAL LANDS:

Subject to Section 6 (a) and 6(b) of this By-law, and notwithstanding any other provisions of this By-law, a wire, ornamental or chain link fence not exceeding 3.0 metres in height above the adjoining ground level, may be constructed around the perimeter of any parcel of land used for commercial or industrial purposes.

9. SCREENING FENCES:

Subject to section 6. (a) and 6. (b), and notwithstanding any other provisions in this By-law, screening fences of a maximum height of 3.0 metres may be constructed along or near the boundaries

separating land used or zoned for commercial or industrial purposes from land used or zoned for residential, public and park or institutional purposes.

10. GARDEN WALLING AND RETAINING WALLS:

The provisions of this By-law all as applicable to fences, hedges, natural and non-natural barriers shall apply in all cases to garden walling and retaining walls erected and/or constructed within the Municipality of the City of Port Colborne.

11. BARBED WIRE:

No person shall construct or permit to be erected or maintained any fence composed wholly or partly of barbed wire or other barbed material, along any highway, street, etc. within the City of Port Colborne, provided, however, that barbed wire or other barbed material may be used within any area zoned Rural Agricultural in Restricted Area (Zoning) By-law of the Municipality in effect at the time or along the top of any fence enclosing property used for commercial or industrial purposes, when such fence enclosing such commercially or industrially used property is 2.0 metres or more in height above adjoining ground level or at a height prescribed by the Chief Official.

12. FENCES AROUND POOLS:

Fences around pools and swimming pools shall comply with the Municipality's Swimming Pool By-law in effect at the time but where this By-law conflicts with the Swimming Pool By-law this By-law shall take priority.

13. GENERAL:

All fences, hedges, garden walling, retaining walls, natural and non-natural barriers erected, constructed or grown shall be solely contained within the limits of the owner and/or owner's property including all foundations and footings.

14. EXCEPTIONS:

None of the provisions of this Section relating to the height of fences, except the provisions of Section 6 of this By-law, shall apply to land owned or leased and used by:

- (i) The Corporation of the City of Port Colborne
- (ii) Any local Board as defined in the Department of Municipal Affairs Act
- (iii) Any Telephone or Telegraph Company
- (iv) Any person for the purpose of or incidental to the purpose of providing Public Transport
- (v) Any Department of the Federal or Provincial Government including the Hydro Electric Power Comm. of Ontario
- (vi) Any Gas Company
- (vii) Any person for a school

15. STONE-BRICK WALLS, SHRUBS, TREES, FENCES ETC. ON CITY PROPERTY

No stone-brick walls, shrubs, trees or fences shall be erected on street lines or City properties without the prior approval of Council.

16. PENALTIES FOR NON-COMPLIANCE:

(a) Any person who contravenes this By-law is guilty of a provincial offence and is liable upon prosecution to a fine as set by the Court and not exceeding \$1,000.00.

(b) Upon Conviction for a breach of any part of the provisions of this By-law, the convicting Judge, besides imposing a penalty under Section 17(a) may order the offender to carry out the requirement of this By-law within a time to be limited by the Order.

(c) In default of the offender carrying out such order, the Judge may

order the Chief Official or any other person so authorized by Council to forthwith enter upon the premises where the breach took place and cause the provisions of this by-law to be carried out at the expense of the offender and such expense shall be recoverable by action or distress or in like manner as Municipal Taxes.

17. **BY-LAW REPEALED:**

By-law 989/60/80 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL
THIS 23RD DAY OF NOVEMBER, 1981.

Bob Saracino (sgd.)
MAYOR

L.C. Hunt (sgd.)
L.C. Hunt
CITY ADMINISTRATOR AND CLERK