

Fence By-law

PS– 6 Enacted – June 9, 2008

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Bill No. 281
2008

By-law No. PS-6

A by-law to provide for regulating and governing
fences in the City of London

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS paragraph 10 of subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting Structures, including fences and signs;

AND WHEREAS section 98 of the *Municipal Act, 2001* provides that a municipality may provide that the *Line Fences Act* does not apply to all or any part of the municipality, but despite such by-law being passed, section 20 of the *Line Fences Act* continues to apply throughout the municipality;

AND WHEREAS it is deemed expedient to exclude the City from the provisions of the *Line Fences Act*, R.S.O. 1990, c.L.17, as amended;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

Part 1 DEFINITIONS

1.1 In this by-law,

“building” means any permanent structure used or intended to be used for the shelter, accommodation or enclosure of persons, animals or goods, but shall not include a lawful boundary wall or fence;

“City” means The Corporation of the City of London;

“corner lot” means a lot situated at the intersection of and abutting upon two streets, or upon two parts of the same street, the adjacent sides of which street or streets, (or, in the case of a curved corner, the tangents at the street extremities of the side lot lines) contain an angle of not more than 135 degrees. In the case of a curved corner, the corner of the building lot shall be that point on the lot line abutting a street nearest to the point of intersection of the said tangents;

“corner visibility triangle” means a triangular area formed within a corner lot by the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them 5.4 metres (17.7 feet) from their point of intersection;

“Council” means the Council of the City;

“driveway visibility triangle” means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and the street line or sidewalk (if existing) or the projections thereof, and a straight line connecting them 2.7 metres (8.9 feet) from their point of intersection;

“effective ground level” means the highest level of the ground within 1.0 m (3 ft 3 in) horizontally in any direction from the point being considered;

“fence” includes a railing, wall, line of posts, wire, gate, boards, pickets or other similar substances, used to enclose or divide in whole or in part a yard or other land, to establish a property boundary, or to provide privacy; and includes any hedge or grouping of shrubs used for the same purpose located in corner visibility triangle or driveway visibility triangle;

“**height**” means the distance measured from the effective ground level where the fence posts are embedded to the top of the said posts;

“**lot line**” means the line formed by the boundary of any lot;

“**Officer**” means a Municipal Law Enforcement Officer whose duties include the enforcement of this by-law, and a Police Officer;

“**residential zone**” means any land zoned Residential under the City’s zoning by-law;

“**yard**” means that part of a lot extending from a lot line into a lot to the nearest building and measured at right angles to the lot line;

“**Zoning By-law**” means any by-law administered by the City passed pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, or a predecessor or successor thereof, as may be amended from time to time.

Part 2 FENCES – CONTRARY TO REGULATIONS

2.1 Prohibited

No person shall have, erect, construct, maintain, or permit to be erected, constructed or maintained any fence that does not comply with the provisions of this by-law.

2.2 Prohibited - Height

Subject to sections 5.1 and 6.1 of this By-law, no person shall have, erect, construct, maintain, or permit to be erected, constructed or maintained any fence exceeding a height of 2.13 metres (7 feet).

2.3 Restriction – Materials of Construction – Residential Zone

No person shall have, erect, construct, maintain, or permit to be erected, constructed or maintained any fence comprised of sheet metal or corrugated metal panel members on a lot used for residential purposes.

2.4 Contravention of Order

No person shall contravene a Work Order or an Order to Discontinue Activity.

2.5 Hinder or Obstruct

No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty, including carrying out an inspection.

Part 3 EXISTING FENCES

3.1 Fences - Deemed to Comply

Notwithstanding the provisions of this by-law, any fence that is in existence prior to the date of the enactment of this by-law and in compliance with other applicable regulations including City of London by-laws, shall be deemed to comply with this by-law and may be maintained with the same material, height and dimensions as previously existed including any repair work that may be done to such fence.

Part 4 RESIDENTIAL FENCES

4.1 Height – location

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence on a lot used for residential purposes except in accordance with all of the following regulations:

- (a) a fence within any yard shall not exceed a height of 2.13 metres (7 feet);
- (b) no fence shall be located or constructed so as to block access to a parking space as required by the Zoning By-law unless such fence is constructed with a gate at least 2.59 metres (8.5 feet) wide giving access to such parking space; and
- (c) no fence exceeding 0.9 metres (3 feet) in height may be erected within any corner visibility triangle or driveway visibility triangle.

Part 5 SALVAGE YARD

5.1 Enclosure – specifications

Notwithstanding any other provision herein, a person may have, erect, construct, maintain or permit to be erected, constructed or maintained a fence to enclose land used as a salvage yard provided that such fence shall:

- (a) be not less than 2.44 metres (8 feet) in height and not more than 3 metres (10 feet) in height;
- (b) be set back from all public rights-of way a minimum of 7.62 metres (25 feet); and,
- (c) if on a corner lot, not be within any corner visibility triangle or driveway visibility triangle.

Part 6 INDUSTRIAL AND COMMERCIAL LOTS

6.1 Enclosure – specifications

A person may have, erect, construct, maintain or permit to be erected, constructed or maintained a fence to enclose a front yard of a lot used primarily for industrial or commercial purposes provided that such fence shall:

- (a) be set back from the front lot line a minimum of 7.62 metres (25 feet); and,
- (b) if on a corner lot, not be within any corner visibility triangle or driveway visibility triangle.

Part 7 BARBED WIRE FENCES

7.1 Prohibited –exceptions

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained any barbed wire fence, except that barbed wire is permitted:

- (a) on a fence erected on land used for agricultural purposes for the keeping of livestock;
- (b) on the top of a fence erected on a lot used for commercial or industrial uses provided that it projects inwards to the area enclosed by the fence; and,
- (c) on the top of a fence erected for security reasons around any facility owned, operated or maintained by any level of government or a utility provider.

Part 8 ELECTRIC FENCES

8.1 Prohibited - exceptions

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained any fence equipped with a device for transmitting an electric current thereon or there through, except on agricultural land used for the purpose of keeping livestock provided that the maximum electrical current does not exceed 120 volts at .04 amps and complies with all other applicable legislation.

Part 9 FENCES ON CITY PROPERTY

9.1 Street line to sidewalk – prohibited – exception

No person shall have, erect, construct, maintain or permit to be erected, constructed or maintained a fence from the lot line abutting a street to the sidewalk and along the same on the property of the City unless:

- (a) such fence conforms to the height requirements as prescribed herein; and,
- (b) the owner of the land abutting the property of the City upon which such fence is erected obtains a licence or other authority from the City and agrees to remove the same from the property of the City as and when directed to do so.

Part 10 CONDITIONS

10.1 Development - redevelopment

Notwithstanding any other provision herein, a fence which is constructed as required in a registered agreement or agreements entered into with The Corporation of the City of London pursuant to sections 41 and 51 of the *Planning Act*, as amended, or any plans approved by the City in accordance with those sections shall be deemed not to contravene the provisions of this by-law.

Part 11 LINE FENCES ACT – DIVISION FENCES

11.1 Line Fences Act – not applicable

The Line Fences Act shall not be not apply to any part of the City of London.

11.2 Division fence – cost – shared adjoining land owners

Each of the owners of adjoining occupied land 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.

11.3 Division fence – type – disagreement – procedure

Where owners of adjoining land cannot agree on the type or kind of fence to be erected between them as provided by section 11.2 of this by-law, no contribution to the cost thereof is to be payable unless the party erecting the fence constructs a chain link fence 1.22 metres (4 feet) in height. Only upon such fence being constructed will the provisions of section 11.2 of this by-law apply respecting the apportionment of costs of the said fence.

Part 12 INSPECTIONS

12.1 Officer – enter on land

An Officer, and anyone under the Officer's direction, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this by-law is being complied with.

12.2 Inspection - documentation

For the purposes of an inspection, the Officer may:

- (a) require the production for inspection of documents relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and,
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take photographs necessary for the purposes of the inspection.

12.3 Inspection – receipt

A receipt shall be provided for any document or thing removed during an inspection and the document or thing shall be promptly returned after the copies or extracts are made.

Part 13 ORDERS

13.1 Order to Discontinue Activity

If an Officer is satisfied that this by-law has been contravened, the Officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.

13.2 Order to Discontinue Activity - particulars

An Order to Discontinue Activity shall set out:

- (a) the municipal address of the property on which the contravention occurred;
- (b) the date of the contravention;
- (c) the reasonable particulars of the contravention of the by-law;
- (d) the date by which there must be compliance with the order; and
- (e) the date on which the order expires.

13.3 Order to Discontinue Activity - service

The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

13.4 Work Order – contravention of by-law

If an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an order, known as a Work Order, requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do the work to correct the contravention.

13.5 Work Order - contents

The Work Order shall set out:

- (a) the municipal address or the legal description of the land;
- (b) reasonable particulars of the contravention and of the work to be done;
- (c) a deadline, being a specific date, for compliance with the Work Order; and
- (d) a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the owner's tax roll.

13.6 Work Order – service

The Work Order may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

13.7 Work Order – unable to effect service

If the City is unable to effect service on the owner under section 13.6, it shall place a placard containing the terms of the Work Order in a conspicuous place on the land and may enter on the land for this purpose. The placing of the placard shall be deemed to be sufficient service of the Work Order.

Part 14 REMEDIAL ACTION

14.1 Remedial Action

Every person who has, erects, constructs, maintains, or permits to be erected, constructed or maintained any fence that does not comply with the provisions of this by-law shall forthwith take any necessary action to ensure that the fence complies with the provisions of this by-law.

14.2 Remedial Action – work done by City

In default of the work required by this by-law or by a Work Order not being done by the person directed or required to do it, the City in addition to all other remedies it may have, may do the work or cause the work to be done at the person's expense and may enter upon land, at any reasonable time, for this purpose.

14.3 Remedial Action – recover costs

The City may recover the costs incurred by it in doing the work or causing it to be done from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. Costs include interest calculated at a rate of fifteen (15) per cent, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including interest, are paid in full.

14.4 Remedial Action - lien

The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper Land Registry Office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate of fifteen (15) per cent to the date payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper Land Registry Office.

Part 15 OFFENCES

15.1 Offences

Any person who contravenes any provision of this by-law is guilty of an offence and is subject to a minimum fine of \$100.00 and a maximum fine of \$5,000.00.

Part 16 ENFORCEMENT

16.1 Fine - Enforcement

If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

Part 17
SEVERABILITY

17.1 Provision – severable

It is hereby declared that each and every of the foregoing provisions of this by-law is severable and that, if any provision of this by-law should for any reason be declared invalid by any Court, it is the intention and desire of this council that each and every of the then remaining provisions hereof shall remain in full force and effect.

Part 18
REPEAL - ENACTMENT

18.1 By-law – previous

By-law PS-1 and any amendments thereto are hereby repealed.

18.2 Short title

This by-law may be referred to as the “Fence By-law”.

18.3 Effective date

This by-law shall come into force and effect on the day that it is passed.

PASSED in Open Council on June 9, 2008

Anne Marie DeCicco-Best
Mayor

Kevin Bain
City Clerk

First reading - June 9, 2008
Second reading – June 9, 2008
Third reading – June 9, 2008