

THE CORPORATION OF THE TOWN OF WALKERTON

BY-LAW NUMBER 86-18

A BY-LAW TO PRESCRIBE THE HEIGHT AND DESCRIPTION OF
AND THE MANNER OF ERECTING AND MAINTAINING FENCES
WITHIN THE LIMITS OF THE TOWN OF WALKERTON.

WHEREAS pursuant to Paragraphs 18, 19, 20, 21, 22 and 23 of Subsection 1 of Section 210 of The Ontario Municipal Act, R.S.O. 1980, Chapter 302, as amended, a local municipality may pass by-laws, may regulate and control the manner of erecting and maintaining of fences within the limits of the municipality;

AND WHEREAS the Council of the Corporation of the Town of Walkerton deems it advisable to pass such a by-law;

NOW THEREFORE the Council of the Corporation of the Town of Walkerton ENACTS as follows:

1. **Definitions:** For the purpose of this by-law:
 - (1) Approved Fencing Material shall mean new or good quality used, wood, cedar rail, metal or man-made sheets, poles, or mesh or any other material approved by the Building Inspector for fence construction.
 - (2) Building Inspector shall mean the Building Inspector for the Town of Walkerton.
 - (3) Dwelling shall mean dwelling house as defined by By-law 84-41 of the Town of Walkerton and shall include all definitions of dwelling unit and dwelling house contained in Section 4 of By-law 84-41.
 - (4) Zoning By-Law shall mean By-Law 84-41 of the Town of Walkerton as amended or may be amended from time to time.
2. **Compliance:** Any person erecting or constructing a fence after the passing of this By-law in the Town of Walkerton shall construct the fence in accordance with the provisions of this By-law.
3. **Boundary Fences:**
 - (1) **Definitions:**
 - (a) Adjoining Land Owner shall mean the registered land owner of the land adjoining the boundary or lot line on which a land owner erects a boundary fence.
 - (b) Boundary Fence shall mean any fence, wall (other than the wall of a building) or other barrier of any construction or kind whatsoever and shall include hedges and plantings of any trees, bushes, shrubs or other plant material of any kind located on or immediately adjacent to the boundary or lot line of any parcel of land or part thereof from any other parcel of land or part thereof.
 - (c) Building Line shall mean building line as defined in and established by the zoning by-law.

(d) Land Owner shall mean any person erecting, constructing, or permitting to be erected or constructed a boundary fence for the purpose of separating property owned or occupied by him from adjoining property. For the purpose of this By-law land owner shall be deemed to include any person who occupies land with the authority, expressed or otherwise, of the registered owner of the land.

(e) Lot Line shall mean lot line as defined and established by the Zoning By-law and shall include rear and side lot line.

(2) A land owner erecting a boundary fence on the lot line shall obtain the consent of the adjoining land owner to the erection of the boundary fence on the lot line.

(3) A land owner erecting a boundary fence shall erect the boundary fence in accordance with the following standards:

(a) The fence shall be constructed of approved fencing material.

(b) Fences behind building line:

(i) Solid construction shall be of a height not exceeding five feet (1.5 meters) except in an industrial zone as designated in the Zoning By-law where height shall not exceed seven feet (2.1 meters).

(ii) Not of a solid construction shall be of a height not exceeding six feet (2 meters) except in an industrial zone as designated in the Zoning By-law where the height shall not exceed seven feet (2.1 meters).

(c) Fences in front of building line shall not be of solid construction and shall have a height not exceeding three feet (0.9 meters).

(4) If a land owner proposes to erect a boundary fence and the sides of the boundary fence are of unequal appearance, the adjoining land owner shall have the right to decide which side of the fence faces his property.

(5) When a land owner and an adjacent land owner are unable to reach agreement on any matter or item in this section, the parties may refer the issue to the Building Inspector whose decision shall be final. No costs shall be incurred by the Building Inspector pursuant to this subsection without agreement in writing between the parties as to payment of costs.

4. Privacy Fences:

(1) Definitions:

(a) Privacy fence shall mean any fence, the apparent purpose of which is to shield an area from adjoining property.

(2) A person erecting a privacy fence shall erect the fence in accordance with the following standards:

(a) The fence shall be constructed of approved fencing material.

(b) The fence shall be located behind the building line.

(c) The fence shall not encroach into the minimum side yard as prescribed by the Zoning By-law and the extension of such side yard into the front yard, as defined by the Zoning By-law to the building line.

(d) The fence shall not come within two feet (0.6 meters) of any boundary or lot line.

(e) The fence shall not exceed a height of eight feet (2.4 meters).

5. Protection Fences:

(1) **Definition:** Protection fence shall mean any fence erected for the purpose of security or protection and which encloses a parcel of land or part thereof.

(2) A land owner erecting a protection fence shall erect the fence in accordance with the following standards:

(a) The fence shall be constructed of a wire mesh or chain link type construction.

(b) The fence shall have a height of not in excess of five feet (1.5 meters) except for the purpose of enclosing a recreational use other than property on which a dwelling is located, in which case the height of the fence shall not exceed twelve feet (3.6 meters).

(c) The fence shall not encroach into the minimum side yard as prescribed by the Zoning By-Law and the extension of such side yard into the front yard as defined by the Zoning By-law to the building line, unless a gate is provided to allow access to the enclosed property.

6. Salvage Yard:

(1) **Definition:** Salvage Yard shall mean a salvage yard as defined by the Zoning By-law.

(2) Notwithstanding any other provision herein the land owner may erect a fence of solid construction to enclose a salvage yard in accordance with the following standards:

(a) The fence has a minimum height of eight feet (2.4 meters) and a maximum height of ten feet (3.0 meters).

(b) The fence is set back from all public rights of way a minimum of twenty-five feet (7.6 meters).

7. Barbed Wire Fences:

(1) No person shall use barbed wire in the construction of a fence within the Town of Walkerton unless the barbed wire is used in accordance with the following standards:

(a) The fence shall be erected on land designated agricultural or development by the Zoning By-Law and is used for the purpose of enclosing an area pasturing or housing livestock.

(b) The fence is a protection fence with a barbed wire protection inwards to the area enclosed by the fence, on land designated commercial or industrial by the Zoning By-law.

8. Electric Fences:

(1) No person shall equip any fence with a device for transmitting electric current on or through the fence unless the following standards are met:

(a) The fence must be located on land designated agricultural by the Zoning By-law.

(2) The land must be used for the purpose of containing livestock pastured or housed on the land.

(3) The maximum electrical current does not exceed 120 volts at .04 amps.

(4) The electrical device fixed shall comply with the Power Commission Act, R.S.O. 1980, and the regulations thereto as amended or may be amended from time to time.

9. **Swimming Pool:**

(1) **Definition:** Swimming Pool shall mean:

(a) A body of water having a minimum depth of three feet (0.9 meters) permanently or temporarily located outdoors to be used or maintained for the purpose of swimming, wading, diving or bathing.

(b) A pool which is subject to the regulations made pursuant to The Public Health Act, R.S.O. 1980, as amended.

(2) Any persons erecting or maintaining a swimming pool shall enclose the swimming pool with a fence or other enclosure entirely around the swimming pool in accordance with the following standards:

(a) The fence or enclosure shall have a minimum height of five feet (1.5 meters) above grade. (b) For the purpose of paragraph (a) above, an enclosure means, provided that the same does not facilitate access by climbing:

(i) a dwelling house, building or accessory building; and
(ii) the walls, including decks and guardrails, above grade of a swimming pool, provide that any access ladders or stairs thereto are locked unless a responsible adult is present and supervising the swimming pool.

(c) Every fence enclosing a swimming pool shall be constructed so that:

(i) it does not facilitate access to the swimming pool by climbing; and

(ii) it has, as the only means of entry to the swimming pool, gates or doors which shall be:

(1) not less than five feet (1.5 meters) in height above grade;

(2) two inches (50 millimeters) mesh fencing above grade;

(3) supported on substantial hinges; and

(4) equipped with a locking device.

(3) Persons maintaining a swimming pool shall not leave the gate or door to the swimming pool area unlocked unless a responsible person is present and supervising the swimming pool area.

(4) No person shall fill a swimming pool with water unless and until it has been enclosed in accordance with standards herein.

(5) Any person maintaining a swimming pool that is not fenced in or enclosed in accordance with the standards of this section on the day the by-law is passed shall change the existing fence or erect a new fence in order to comply with the standards of this section within 45 days of the date of this by-law.

10. Corner Lots:

(1) Definitions:

- (a) Corner Lot shall mean corner lot as defined by the Zoning By-Law.
- (b) Corner Space shall mean a triangular space formed by joining the following three points:
 - (i) a point of intersection of intersecting street lines;
 - (ii) a point located on one street line measured twenty feet (6.10 meters) from the point of intersection of the intersecting street lines;
 - (iii) a point located on the other street line measured twenty feet (6.10 meters) from the point of intersection of the intersecting street lines.
- (c) Street Line shall mean street line as defined by the Zoning By-Law.

(2) A person may erect a fence in the corner space if the fence meets the following standards:

- (a) The fence is a boundary fence or is a protection fence.
- (b) The fence is constructed of an open type of construction so as to allow good visibility to a driver of a vehicle approaching the intersection.

11. Penalties:

Any person who contravenes any provision of this by-law is guilty of an offence and is liable, on summary conviction, to a fine of not more than ONE THOUSAND (\$1,000.00) DOLLARS, exclusive of costs, recoverable under The Summary Conviction Act.

12. Validity:

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.

13. Minor Variance:

- (1) The Committee of Adjustment of the Town of Walkerton is hereby appointed for the Town of Walkerton for the purpose of enquiring into and reporting on any applications for minor variance from the provisions of the By-law.
- (2) The Committee may recommend that any application be refused or that such relief as it considers appropriate be granted either absolutely or subject to conditions.
- (3) The Committee is directed to follow its usual procedure on applications, so far as may be practical.
- (4) The Zoning Administrator shall place all reports made by the Committee of Adjustment under this section before the Council for approval.
- (5) The Council's usual rules respecting delegations will apply to persons desiring to make representations in support of or against a Committee of Adjustment recommendation made under this section.

14. By-Law Numbers 74-03, 77-16 and 78-06 of the Corporation of the Town of Walkerton and all By-Laws amending same, are hereby repealed.

READ A FIRST TIME THIS 28th. DAY OF APRIL, A.D. 1986.

Fred Clark
MAYOR

Devin Walker
CLERK

READ A SECOND TIME THIS 28th. DAY OF APRIL, A.D. 1986.

Fred Clark
MAYOR

Devin Walker
CLERK

READ A THIRD TIME AND FINALLY PASSED THIS 28th. DAY OF APRIL, A.D. 1986.

Fred Clark
MAYOR

Devin Walker
CLERK

