

**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET**

BYLAW NO. 019-2005

Being a bylaw to regulate the height,
location, character and construction
materials of fences in the Township of
Wainfleet.

WHEREAS the Municipal Act 2001, S.O. 2001, s. 8 states that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS the Municipal Act 2001, S.O. 2001, s. 11 states that a municipality may pass bylaws respecting matters within a list of identified spheres of jurisdiction that includes fences;

AND WHEREAS the Municipal Act 2001, S.O. 2001 s. 9 states that Sections 8 and 11 of the Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues.

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet **HEREBY ENACTS AS FOLLOWS:**

1. APPLICATION OF THIS BYLAW

This bylaw shall apply to all areas zoned agricultural, commercial, industrial, institutional, mobile home park, public, residential, or rural, as set out in the Comprehensive Zoning Bylaw of the Township of Wainfleet as amended or replaced from time to time.

2. GENERAL PROHIBITION

No person(s) shall construct or permit the erection in any areas zoned agricultural, commercial, industrial, institutional, mobile home park, public, residential, or rural as set out in the Comprehensive Zoning Bylaw of the Township of Wainfleet in effect at any time, of any fence prohibited by this bylaw.

3. DEFINITIONS

- a) A “**fence**” for the purpose of this bylaw shall mean any barrier or structure constructed of chain link metal, wood, stone, metal, brick or other similar materials or combinations of such materials which is erected for the purpose of screening, safeguarding, retaining or enclosing property or delineating property lines. A fence may include a solid or continuous hedge as a component.

- b) A “**front yard**” for the purpose of this bylaw shall mean a yard extending across the full width of the lot between the front lot line and a line drawn parallel or concentric thereto and through the point of the main wall of a main building closest to the front lot line.
- c) The “**height of a fence**” for the purpose of this bylaw shall be defined as the dimension from the established grade to the top of the finished fence.
- d) The “**rear yard**” for the purpose of this bylaw shall mean a yard extending across the full width of the lot between the rear lot line and a line drawn parallel or concentric thereto and through the point of the main wall of the main building closest to the rear lot line. Where there is no rear lot line, the *rear yard* shall be measured from the intersection of the side lot lines to the closest point of the main wall of the main building.
- e) The “**side yard**” shall mean a yard extending from the front yard to the rear yard between the side lot line and a line drawn parallel or concentric thereto and through the point of the main wall of a building closest to the side lot line.
- f) For the purpose of this bylaw a “**sight triangle**” shall mean a triangular space, free of buildings, structures and obstructions, formed by the street lines abutting a corner lot and a third line drawn from a point on a street line to another point on a street line, each such point being the required sight distance from the point of intersection of the street lines as specified in this bylaw.
- g) For the purpose of this bylaw the “**property lot line**” shall mean a boundary line of a lot.

4. **FENCE HEIGHT**

- a) The height of a fence shall be measured from the higher adjacent grade where there is a grade difference on each side of the fence.
- b) No person shall erect or cause to be erected in a front yard a fence that is higher than 1.25 metres (4 feet) above grade.
- c) No person shall erect or cause to be erected in a rear yard or side yard a fence, which is higher than 1.83 metres (6 feet) above grade.
- d) Where a residential zone abuts an industrial or commercial zone, the height of the fence shall be a minimum of 1.83 metres (6 feet) and a maximum of 2.4 metres (8 feet) in height.
- e) Where an industrial zone abuts a rural zone, the height of the fence shall be 2.4 metres (8 feet) in height.

5. **FENCE CONSTRUCTION MATERIALS**

- a) No material or part of any *fence* shall consist of or be constructed from vehicle tires, barbed wire or other material having dangerous or toxic characteristics or include any device for projecting an electric current through said fence, except a farmer using an electric fence auxiliary to a line fence.
- b) The finished side of the *fence* shall face toward the adjacent neighbours.

6. FENCE LOCATION

- a) The location of a line *fence* shall be located directly on the lot line, as determined by a registered survey prepared by an Ontario Land Surveyor. Should the fence not be a line fence, then it must be contained wholly within the property of the person(s) constructing said fence.
- b) Where there is a dispute by neighbours about the location of the lot line, the Municipality does not become involved in these civil disputes. A survey will be required to be completed by the parties at their own expense.

7. SIGHT TRIANGLES

No person who uses the land or erects buildings or structures thereon shall place in or on a corner lot any wall, *fence*, tree, hedge or other barrier, which would obstruct visibility above a height of 0.6 metres (2 feet) above the grade of the centerline of the road intersection on that portion of the lot:

- a) Within a triangle formed by the boundaries of the lot common within the road allowance lines and a straight line connecting points on each of the said boundaries measured a distance of 9 metres (30 feet) from the point where they intersect,
- b) In a case where the lot boundaries abutting the intersecting roads are joined by a curve, the area between the chord joining the beginning and ending of such curve and the road line.

8. FENCING AROUND SWIMMING POOLS

Every owner of an outdoor swimming pool shall erect and maintain around the perimeter of the swimming pool, or subject to the provisions of this bylaw, around the perimeter of the property on which the swimming pool is situated, a continuous fence of substantial construction, complete with a self-locking gate or gates, to a minimum height of 1.25 metres (4 feet) above grade, or to a maximum height as otherwise specified in this bylaw.

9. MAINTENANCE OF FENCE

- a) The owner of the land on which a fence is erected shall maintain such fence in a good state of repair as follows:
 - i. the fence is complete and in a structurally sound condition and plumb and securely anchored;
 - ii. the fence is protected by weather-resistant materials;
 - iii. the fence components are not broken, rusted, rotten or in a hazardous condition;
 - iv. all stained or painted fences are maintained free of peeling;
 - v. the fence does not present an unsightly appearance deleterious to the abutting properties

10. EXCEPTIONS

None of the provisions of this bylaw relating to the height of fences, except under Section 6 of this bylaw, apply to lands owned or leased and used by the following:

- a) The Corporation of the Township of Wainfleet;
- b) The Regional Municipality of Niagara
- c) Any Department or Agency of the Federal or Provincial Government;
- d) Any Public Utility including electricity, gas, telephone, or telegraph;
- e) Any person or agency for the purpose of or incidental to the purpose of providing public transport;
- f) Any public or private school.
- g) Any person for the purpose of temporarily protecting any excavation or construction site.

11. ADMINISTRATION AND ENFORCEMENT

- a) Any fence in existence at the date of passing of this Bylaw, which does not conform to the provisions herein, and which anytime thereafter, is in need of replacement or reconstruction, shall be built in conformity with the provisions of this Bylaw.
- b) The Municipal Bylaw Enforcement Officer, upon written complaint by a property owner of the Township of Wainfleet and/or by direction of a resolution passed by the Council of the Township of Wainfleet, shall administer and enforce the provisions of this Bylaw.
- c) Any person who contravenes any of the provisions of this Bylaw is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of cost as prescribed by the Provincial Offences Act. R.S.O. 1990.
- d) Every provision of this Bylaw is declared to be severable from the remainder of the Bylaw, and if a court of competent jurisdiction shall declare any provisions of this Bylaw invalid, such declaration shall not affect the validity of the remainder of the Bylaw.

12. MUNICIPAL REMEDIAL ACTION

- a) Pursuant to Section 446 of the Municipal Act, 2001 as amended from time to time, that in the event that any person is in default of any matter or thing that is required to be done pursuant to the provisions of this bylaw, such matter or thing shall be done at the person's expense and the Township may recover the costs of doing such matter or thing from the person directed or required to do it and the municipality may recover the costs by action or by adding the cost to the tax roll and collecting it in the same manner as taxes.
- b) Any remedial works done under this bylaw shall not be undone and the municipality shall not be required to provide compensation as a result of doing the remedial work.

13. DISPUTES RESPECTING FENCES

The provisions of the Line Fences Act and regulations made there under shall govern disputes respecting all fencing matters.

BYLAW READ A FIRST TIME THIS 31ST DAY OF MAY, 2005.

BYLAW READ A SECOND TIME THIS 31ST DAY OF MAY, 2005.

BYLAW READ A THIRD TIME AND FINALLY PASSED THIS 31ST DAY OF MAY, 2005.

G. Harry, MAYOR

M. Benner, CLERK

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 019-2005, of the Township of Wainfleet, Niagara Region, attached hereto is the set fine for that offence. This Order is to take effect December 24, 2013.

Dated at Hamilton this 24th day of December 2013.


Sharon Nicklas
Regional Senior Justice
Central South Region

**PART 1 PROVINCIAL OFFENCES ACT
TOWNSHIP OF WAINFLEET
SET FINE SCHEDULE**

Offences and set fines under By-Law 019-2005, Regulate Fences

<u>Item</u>	<u>Column 1</u> Short Form Wording	<u>Column 2</u> Provision Creating or Defining Offence	<u>Column 3</u> Set Fine in \$
1.	Erect or cause to be erect a fence prohibited by By-Law	Section 2	200.00
2.	Erect or cause to be erect a fence in front yard higher than 1.25 metres (4 feet) above grade	Section 4(b)	150.00
3.	Erect or cause to be erect a fence in rear or side yard higher than 1.83 metres (6 feet) above grade	Section 4(c)	150.00
4.	Erect or cause to be erect a fence less than 1.83 metres (6 feet) or greater than 2.4 metres (8 feet) in height where a residential zone abuts an industrial or commercial zone	Section 4(d)	150.00
5.	Erect or cause to be erect a fence less than or greater than 2.4 metres (8 feet) in height where a industrial zone abuts a rural zone	Section 4(e)	150.00
6.	Construct fence not using suitable materials	Section 5(a)	100.00

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Dec 29/13*

SET FINE SCHEDULE

7.	Construct fence with finished side not facing adjacent neighbours	Section 5(b)	100.00
8.	Construct fence not on lot line or wholly within the property of the person(s) constructing said fence	Section 6(a)	100.00
9.	Construct fence in sight triangle	Section 7	100.00
10.	Construct fence less than 1.25 metres (4 feet) above grade or greater than maximum height otherwise specified in this bylaw around an outdoor swimming pool	Section 8	100.00
11.	Failure to construct a fence of substantial construction around a pool	Section 8	100.00
12.	Failure to ensure that gates in fence around pool are self locking	Section 8	100.00
13.	Failure to maintain fence in good state of repair	Section 9(a)	100.00

Note: The penalty provision from the offences indicated above is in accordance to Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33

JP
Dec 24/13