

THE CORPORATION OF THE TOWN OF MARATHON

BY-LAW NO. 1975

Being a By-Law for Prescribing the Height and Description of Fences within the Town Of Marathon.

WHEREAS the Municipal Act, S.O. 2001, Chapter 25, Section 9, confers broad authority on municipalities to enable them to govern their affairs as they consider appropriate;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, Section 11, provides that a municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS it is deemed expedient to regulate fencing in the Town of Marathon;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARATHON HEREBY ENACTS AS FOLLOWS:

1. TITLE

1.1 That this By-law may be cited as "The Fence By-Law".

2. DEFINITIONS

2.1 That in this by-law;

"Closed Construction" means solid brick, solid concrete, continuous steel panels, translucent panels, or abutting wooden boards forming "privacy" fencing.

"Corner Lot" means a lot situated at the intersection of two or more streets, or at the intersection of a street and a railway right-of-way, or a lot abutting on one or more parts of the same street, in which an interior angle of less than one hundred and thirty-five (135) degrees is contained, between the front and side lot lines abutting by the said street or streets.

"Daylighting Triangle" means an area to be kept free of buildings or structures and landscaping that exceeds 1 metre in height, which area is to be determined by measuring, from the point of intersection of property lines on a corner lot, along each property line and joining such end points with a straight line to form a triangle. The triangular-shaped area between the intersecting property lines and the straight line joining the end points is the "Daylighting Triangle".

"Fence" means a barrier opened or closed erected dividing two or more properties or which marks or substantially marks the boundary.

"Front Yard" means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of the principal building, structure or nearest open storage on the lot.

"Height" means the vertical distance measured between the ground level and the highest point of the fence. Where the ground levels are not the same on both sides of the fence, the higher of such levels shall be considered the ground level for purposes of the height. In the case of a fence located on top of a retaining wall, height means the combined vertical distance between the lowest point of the retaining wall and the highest point of the fence.

"Lot" means all contiguous land under one ownership.

"Lot Line, Exterior" means the longer of the Lot lines of a corner lot which abut a street.

"Municipality" means the Corporation of the Town of Marathon.

"Open Construction" means that there exists a space or open area between fence components to allow for visibility of objects on the other side. This includes the open areas of chain link fences and horizontal/vertical spaces in wooden fences provided the open spaces are: a minimum of 3.8 centimeters (1 1/2 inches) gauge for chain link fencing or 10 centimeters (4 inches) for wooden construction fencing. This may also include wrought-iron or cedar rail fences.

3. GENERAL PROVISIONS

3.1 Scope

The provisions of this By-Law apply to all lands within the Town of Marathon.

3.2 Conditions for Construction of Fences

No person shall construct a fence within the Town except in accordance with the specifications herein or upon applications on which permission was granted as authorized by the Town.

3.3 Obstructions of Streets

No person shall place or maintain a fence or other barrier either permanently, or temporarily on any street except in association with municipal operations or for emergency protection measures with the approval of the appropriate staff member or designate of the Municipality.

3.4 Fence on Boundary of Different Zones

Where a lot line follows a Zone boundary in accordance with the Zoning By-Law of the Municipality, a fence may be erected to the specification of the Zone with the highest height restrictions.

3.5 Setbacks

All setbacks for fences shall be measured from an owner's property lines.

3.6 Town Property

No person shall erect a fence which contains a gate structure that abuts Town property other than an open road allowance without the prior approval of the Town.

3.7 Public Uses

The provisions of this by-law shall not apply to fences constructed for the purpose of public service by the Corporation of the Town of Marathon, and/or any Public authority, department or ministry of the Government of Ontario or of Canada including Ontario Hydro or any telephone, communication or gas company, this includes fencing surrounding storm-water management ponds.

4. RESTRICTIONS IN ALL RESIDENTIAL ZONES

In all Residential Zones of the Municipality the following provisions shall apply.

4.1 No person shall use or allow the use of barbed wire or other barbed material or any material of a nature which could be injurious to the public, including devices projecting electric current through a fence.

4.2 No person shall construct a fence from temporary fencing, chicken wire, farm wire, or un-graded discarded material.

4.3 Any fence constructed shall be compatible to the area and finished in such a manner as to be aesthetically pleasing so as not to offend, to the satisfaction of the Municipality. This would include conventional, privacy or acoustic, fencing found for sale at building supply retailers wherein vertical planks are attached to a top and bottom rail. The finished side of the fence shall be facing outwards from the property,

4.4 A fence or privacy screen shall have a maximum height of 2.4 metres (8 feet) and may be erected along the rear and side lot lines except in the front yard on a property. Fencing within a front yard must be less than 1.2 metres (4 feet) and of an open construction.

4.5 Corner lots shall provide a daylighting triangle of not less than 9 metres (29.5 feet) in the case of local roads intersecting and 15 metres (49.2 feet) where one or more collectors, or Provincial road(s) would abut the lands where a fence is to be constructed.

5. RESTRICTIONS IN ALL COMMERCIAL ZONES

In all Commercial Zones of the Municipality, the following provisions shall apply.

5.1 A fence having a maximum height of 2.4 metres (8 feet) may be erected on a commercially-zoned property.

5.2 Fencing within a front yard must be of open construction.

5.3 Corner lots shall provide a daylighting triangle of not less than 9 metres (29.5 feet) in the case of local roads intersecting and 15 metres (49.2 feet) where one or more collectors, or Provincial road(s) would abut the lands where a fence is to be constructed.

5.4 Council has the authority to approve an alternative form or height of fencing as shown on a commercial site plan drawing.

6. RESTRICTIONS IN INDUSTRIAL ZONES

In all Industrial Zones of the Municipality, the following provisions shall apply.

6.1 A fence having a maximum height of 2.4 metres (8 feet) may be erected on an industrially-zoned property.

6.2 Fencing within a front yard must be of closed construction except for light industrial uses it may be of an open construction.

6.3 Where land is used for the purpose of a salvage yard or automobile wrecking yard, the use shall be surrounded on all sides by a closed construction fence that is a minimum height of 2.4 metres (8 feet) and a maximum height of 3 metres (10 feet) unless otherwise screened from public view.

6.4 Corner lots shall provide a daylighting triangle of not less than 9 metres (29.5 feet) in the case of local roads intersecting and 15 metres (49.2 feet) where one or more collectors, or Provincial road(s) would abut the lands where a fence is to be constructed.

6.5 For all industrial uses, Council has the discretion of approving an alternate form or height of fencing as shown on the relevant site plan.

7. SPECIAL PROVISIONS

7.1 Notwithstanding the provisions of this by-law, chain link or other fences for recreation and related facilities shall be permitted subject to the approval of the Municipality.

7.2 Notwithstanding the provisions of this by-law, temporary safety fences may be used and erected during the demolition or construction of a permitted use for a period not exceeding six months unless authorized by the Municipality.

8. OFFENCES AND PENALTIES

8.1 Every fence that is erected in breach of the provisions of this by-law shall be removed and/or made to conform to the provisions of the by-law within 14 days of receiving written notice of non-conformity from the Municipality.

8.2 In addition to any other party who commits the offence, the owner, lessee or any occupant of any property on which a fence is constructed other than in accordance with the provisions of this by-law shall be deemed to commit the offence.

8.3 Any person convicted of a breach of the provisions of this by-law shall forfeit and pay, at the discretion of the Convicting Judge or Justice, a penalty not exceeding (exclusive of cost) the sum of \$5,000.00 for each such offence.

8.4 In this by-law, where any person is directed to do any matter or thing in default of its being done by the person directed to do it, such matter or thing may be done by the Municipality and such expense may be recovered by action or in like manner as Municipal taxes.

9. THAT the Municipal Law Enforcement Officer be authorized to apply to the Chief Justice for set fines with respect to contravention of this By-Law under the Provincial Offences Act.

9.1 THAT this By-Law shall come into force and effect on the final day of passing.

READ A FIRST AND SECOND TIME THIS 9TH DAY OF MARCH, 2020.

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Mayor

(SEAL)

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Clerk

READ A THIRD TIME AND FINALLY PASSED THIS 9TH DAY OF MARCH, 2020.

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Mayor

(SEAL)

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Clerk