

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 94- 64

BEING A BY-LAW TO PRESCRIBE THE HEIGHT AND DESCRIPTION OF
CERTAIN FENCES IN THE CITY OF PETERBOROUGH

WHEREAS Section 210, paragraph 25, of the Municipal Act R.S.O. 1990, c. M.45, provides that the Council of a municipality may pass by-laws for prescribing the height and description of lawful fences;

AND WHEREAS the Council of The Corporation of the City of Peterborough deems it appropriate to pass a by-law to prescribe the height and description of fences located in proximity to driveways intersecting with highways within the City of Peterborough;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PETERBOROUGH enacts as follows:

1. DEFINITIONS:

In this By-law:

(a) "driveway" means the travelled portion of a vehicular access to a highway from adjacent lands;

(b) "fence" includes:

(i) any structure of wood, stone, metal or any other material which has the function or effect of dividing two areas of land one from another, either physically or visually;

(ii) any row, series or grouping of plants which has the function or effect of dividing two areas of land one from another, either physically or visually;

(c) "flanking triangle" means a triangle composed on two sides of lines measuring 3 metres in length, the first line measured along a street line from its point of intersection with a driveway, and the second line measured along the driveway from its point of intersection with a street line. The third side of the triangle is formed by connecting the end points of the first two sides;

(d) "highway" means a common and public highway, as defined in the Municipal Act, and includes a street or bridge forming part of a highway or on, over or across which a highway passes;

(e) "street line" means the boundary between a highway and a lot.

2. In determining whether a particular structure or row, or series of grouping of plants has the function or effect of dividing two areas of land one from another, either physically or visually, the ownership of the two areas of land in question is not a relevant consideration.

3. (a) No person shall erect, maintain or possess a fence in such a manner or location as to obstruct the vision of the driver of a vehicle entering a highway from a driveway.

(b) A fence shall be deemed to be obstructing the vision of the driver of a vehicle entering a highway from a driveway if any portion of the fence located within a flanking triangle exceeds 0.9 metres in height from grade level.

(c) Notwithstanding anything contained in this by-law, a chain link fence located within a flanking triangle, regardless of its height, shall not be deemed to be obstructing the vision of the driver of a vehicle entering a highway from a driveway.

4. This by-law shall not prevent the maintenance or possession of a lawful fence which is located within a flanking triangle, where the driveway in question is established or constructed subsequent to the establishment or construction of the fence.

5. Notwithstanding any other provision of this by-law, a fence shall not be deemed to be obstructing the vision of the driver of a vehicle entering a highway from a driveway if:

(a) The fence is located in an area on a lot upon which the construction of a building is permitted, pursuant to the Zoning By-law of the City of Peterborough; or

(b) The fence is required and approved by the City of Peterborough as a condition of development or redevelopment of land.

6. It is the express intention of the Council of The Corporation of the City of Peterborough that, should any section of this by-law for any reason be held to be invalid, that section shall be deemed to be severable and the remaining sections of this by-law shall remain in effect until repealed.

7. Any person who contravenes any provision of this by-law is guilty of an offence and is liable, upon conviction, to a fine as prescribed by applicable law for each offence, recoverable under the provisions of the Provincial Offences Act.

BY-LAW read a first and second time this 2 day of
May, 1994.

BY-LAW read a third time and finally passed this 2 day of
May, 1994.

(Sgd) John A. Doris
John A. Doris, Mayor

(Sgd) S. F. Brickell
Steven F. Brickell, Clerk

JWH:lf
"BYLAW\FENCE"