

CORPORATION OF THE NATION MUNICIPALITY

BY-LAW NO. 134-2012

BEING a By-Law to regulate the height and the description of lawful fences.

WHEREAS, Section 10 (2), subsection 10 of the Municipal Act, 2001 as amended provides that Municipal Councils may pass by-laws respecting structures, including fences and signs.

AND WHEREAS, the Council of the Corporation of The Nation Municipality deems it desirable and in the public interest to adopt a fence by-law.

THEREFORE, the Council of the Corporation of The Nation Municipality enacts as follows:

1. DEFINITIONS

“Construct”, **“Erect”** means build, reconstruct or relocate, and shall include any preliminary physical operations such as cutting, grading, excavating, filling or draining, or any altering of any existing structure by an additions, extension or any other structural change;

“Existing” means existing as of the date of the passing of this by-law;

“Fence” means a hedge, any structure, partition or manufactured material which is erected for the purpose of screening, safeguarding or inclosing a piece of land, or to divide a piece of land into distinct portions, or enclosing property, persons, livestock, pets, material, or for delineating property lines. An enclosure about a field or other space or about any object, especially an enclosing structure of wood, iron or other materials, intended to prevent intrusion from without or straying from within;

“Gate” means any movable barrier, swinging, sliding or otherwise used to fill or close an access and includes a door;

“Grade” means the elevation of the finished surface of the ground immediately surrounding a fence;

“Hedge” means a fence composed of naturally growing material, which is densely planted and intended to be maintained at an even height;

“Municipal Law Enforcement Officer” (MLEO) means a peace officer appointed under Section 15 of the Police Services Act to enforce municipal by-laws;

“Municipality” means the Corporation of The Nation Municipality;

“Non-Conforming” means that which does not conform, comply or agree with the regulations of this by-law on the date of the final passing thereof;

“Person” as defined in Zoning By-law 2-2006

“Professional Engineer” means, for the purposes of this by-law, a person who holds a license or a temporary license under the Professional Engineers Act, or his authorized subordinate or assistant;

“Self Latching Device” means automatic locking equipment attached to a fence, gate or door which prevents intrusion from without;

“Sight Triangle” means, on a corner lot, the area located within triangular space formed by the street lines and a line drawn from a point in one street line, each such point being 6 metres measured along the street line from the point of intersection of the street line;

“Street” means any public highway, road, street, lane, alley, square, place, thoroughfare, way or bridge within The Nation Municipality and all parts thereof, including any surface, grassed area, boulevard, ditch, curb, gutter and sidewalk and dedicated street;

“Structure” means anything that is erected, built or constructed of parts joined together and supported by the soil or any other structure and/or requiring a foundation to hold it erect;

“Yard” as defined in Zoning By-law 2-2006;

“Yard, Front” as defined in Zoning By-law 2-2006;

“Yard, Rear” as defined in Zoning By-law 2-2006;

“Yard, Side” as defined in Zoning By-law 2-2006;

“Yard, Side Exterior” as defined in Zoning By-law 2-2006;

“Yard, Side Interior” as defined in Zoning By-law 2-2006;

2. GENERAL REGULATION

2.1 Every property owner shall ensure that all fences are free-standing, stable, and structurally sound and shall be made of materials of good quality and suitable for the purpose, arranged and supported in an orderly and good workmanlike manner.

2.2 Every fence shall be maintained in such a manner that no defects are visible from any street or any property adjoining the property on which the fence is located.

2.3 No person shall construct or cause to construct or erect a fence to remain constructed that includes material which will, does or may, in the opinion of The Nation Municipality adversely affect the safety of the public.

2.4 No person shall construct or cause to construct or erect a fence that obscures a clear view at street intersections, pedestrian or bicycle pathways, driveways, or other points of access or egress of vehicular traffic and, more specifically, no fence shall be permitted within the sight triangle of a corner lot.

2.5 Every gate or door within a fence providing access from a residential lot to a municipal park, municipal green space or a body of water shall be supported by substantial hinges and equipped with a self closing and self latching device placed at the top corner of the gate or door and shall be locked at all times except when supervised by the owner or any person authorized by the owner.

2.6 The installation of an enclosure shall not alter in any way the existing grades or drainage patterns of the premises, unless otherwise approved by a Professional Engineer. The finished grade shall comply with the approved lot grades or drainage pattern.

2.7 All fences shall be maintained in a good state of repair, free from accident hazards and are subject to inspection by the Municipal Law Enforcement Officer (MLEO).

2.8 Wooden fences, with the exception of cedar redwood or specifically pressure treated materials, shall be finished with a weather resistant preservative finish.

- 2.9 Metal fencing shall be constructed of a rust resistant material and shall be finished with a weather resistant preservative finish.
- 2.10 All fences requiring maintenance shall be constructed to facilitate this maintenance. Where access is obstructed, the fence shall be constructed with movable sections.
- 2.11 All fences shall be completed within six (6) months of commencing construction.

3. HEDGE FENCE

- 3.1 Every person shall maintain neatly trimmed a naturally growing hedge to a maximum width of 1.2 metres.
- 3.2 No person shall plant or maintain a naturally growing hedge within 1 metre of a property line, ~~to be added:~~ *except if the hedge is along an external side yard property line, the owner can plant it on the property line.*
- 3.3 Subsection 3.2 does not apply with respect to adjoining lands so long as the owners thereof agree in writing that Subsection 3.2 does not apply.
- 3.4 The maximum height restriction for a naturally growing hedge shall be 5 metres, ~~except along a property line abutting a street or within a yard abutting a street~~ *to be replaced by: except along a front property line or within a front yard;* the maximum height shall be 1.2 metres.

4. FENCES- PROHIBITED TYPES

- 4.1 No barbed wire, razor wire or electrically charges wire which is intended to give an electrical discharge shall be used as a part or in conjunction with any fence unless specified in this By-Law.
- 4.2 Barbed wire or electric fences shall be permitted only when used for the confinement of animals for agricultural purposes.
- 4.3 Notwithstanding Subsection 4.2 above, no person shall use or erect barbed wire, razor wire or electrical fencing on residential property.

5. FENCES- PERMITTED MATERIALS

- 5.1 Fences may be of wooden, chain link, stone, wrought iron, brick or similar construction materials.

6. MAXIMUM HEIGHT OF FENCES- URBAN AND RURAL RESIDENTIAL PROPERTIES

- 6.1 The maximum height of fences extending from the finished grade to the top of the fence shall be 2.6 metres, ~~except along a property line abutting a street or within a yard abutting a street~~ *to be replaced by :except along a front property line or within a front yard*; the maximum height shall be 1.2 metres.
- 6.2 ~~Do we want that section ?????~~ *Notwithstanding Subsection 6.1 above, the maximum height of fences could be higher because of topographical issues and with the approval of the ?? Municipal Planner, MLEO, Council?.*

7. DIVISION FENCES

- 7.1 The owners of adjoining lands may erect along the dividing line between their lands a division fence.
- 7.2 Subsection 7.1 above does not apply if :
 - 7.2.1 the adjoining lands are both unoccupied;
 - 7.2.2 the owners of adjoining lands continue to agree in writing that Subsection 7.1 does not apply.

8. MEASUREMENTS

- 8.1 Measurements of fences are from the finished grade of a property to the top part of the fence including posts or decorative posts.
- 8.2 Where there is a grade difference between the two sides of the fence, the height of the fence shall be measured from the higher grade to the top of the fence.

9. DESIGN

- 9.1 No person shall erect a fence that is not in keeping with the architectural design and concepts of adjacent buildings or structures.
- 9.2 Where a fence exhibits a finished and unfinished face, the most finished face shall face outward from the owner's property. Where the cost of construction is to be shared between the owners on adjacent properties, then both sides of the fence must be equally finished along the shared portion.

10. SNOW FENCE

- 10.1 Snow fencing shall only be used as a temporary device and therefore may be erected and maintained only as follows:
 - 10.1.1 during the winter months for the purpose of snow control;
 - 10.1.2 to temporarily provide a barricade for a public purpose;
 - 10.1.3 shall not be constructed as to cause a snow drift on a sidewalk, pedestrian pathway or road allowance.

11. FENCE PROTECTION ON MUNICIPAL PROPERTY

- 11.1 No person shall erect or construct a fence on Municipal property or a road allowance without first obtaining a written authorization from the municipality.

12. FENCE PERMIT REQUIRED

- 12.1 A permit is required for the planting of a naturally growing hedge and the erection or construction of a fence only where a property is located within residential and village core zones, as demarcated on Schedule 'A' of Zoning By-law 2-2006. The permit shall be issued by the (MLEO). The (MLEO) may require surveyor's plans to establish the location of such fence.
- 12.2 The permit fee for erection, construction of a fence or retaining wall is set out in Schedule "A" attached to and forming part of this By-Law.
- 12.3 Permit is not required for snow fence or public barricades used temporarily for public purposes.

13. NON-CONFORMITY

- 13.1 Nothing in this By-Law shall prevent the use and maintenance of any fence for any purpose prohibited by the By-Law, if such fence was lawfully erected and used for such purpose prior to the enactment of this By-Law.
- 13.2 Any owner may apply for approval, pursuant to Section 41 of the Planning Act as amended, to erect a fence otherwise permitted under the provisions of this By-Law.

14. ENFORCEMENT

- 14.1 This By-Law shall be enforced by the Municipal Law Enforcement Officer (MLEO) of The Nation Municipality.

15. VALIDITY

- 15.1 If a court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, such section or part thereof shall not be construed as having persuaded or influenced Council to pass the remainder of this By-Law and it is hereby declared that the remainder of this By-Law shall be valid and shall remain in force.

16. PENALTY

- 16.1 Any person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable to a fine as prescribed for under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- 16.2 For the purposes of this section, each day an information shall constitute a separate offence.

17. PROHIBITING ORDER

- 17.1 In addition to imposing a fine, the Court may, upon conviction of an offence under this By-Law, make an order prohibiting the continuation or repetition of the violation by the person or corporate entity convicted.

18. REPEAL OF PREVIOUS BY-LAW

- 18.1 That By-law 79-2009 is hereby repealed.

19. BY-LAW TO TAKE EFFECT

- 19.1 This By-Law shall take force on the day it is finally adopted by Council.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL THIS 15th DAY OF OCTOBER, 2012.

François St. Amour, Mayor

Mary J. McCuaig, Clerk

SEAL

SCHEDULE "A" TO BY-LAW NO. 134-2012

ERECTION OF FENCES, RETAINING WALLS

PERMIT FEES

Erection of a fence, including a naturally growing hedge	\$20.00

CORPORATION OF THE NATION MUNICIPALITY

BY-LAW NO. 45-2014

BEING a By-Law to amend Fencing By-Law no. 134-2012 to govern the locating of fences along a common dividing line.

WHEREAS the Planning Department recommended to Council to amend By-Law no. 134-2012 in order to avoid situations of placing fencing in the middle of a common dividing line of semi-detached and row dwelling;

AND WHEREAS Council did approve to proceed with this amendment at its meeting of March 31, 2014;

THEREFORE, the Council of the Corporation of The Nation Municipality enacts as follows:

- 1) That the following paragraph be added to By-Law No. 134-2012:
“7.3 No fence shall be permitted along a dividing common lot line of a semi-detached dwelling or a row dwelling starting at the street right-of-way and extending to the front wall of the dwelling.”
- 2) All other sections of By-Law 134-2012 shall remain in force.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL THIS 14TH DAY OF APRIL, 2014.

Francois St. Amour, Mayor

Mary McCuaig, Clerk

SEAL