

# THE CORPORATION OF THE TOWNSHIP OF CHAMPLAIN

## BY-LAW NUMBER 2000-35

### Being a By-law respecting the erection and maintenance of fences

**REFERENCE:** Section 210, p.25 and p.28 of the Municipal Act, R.S.O. 1990

**WHEREAS** it is considered desirable to enact a by-law to regulate the erection and maintenance of fences and to prescribe the height and description of and the manner of erecting and maintaining fences and gates within the Township of Champlain;

**AND WHEREAS** the Municipal Act, R.S.O. 1990, Section 210, p.25 and p. 28, permits a municipality to enact a fence by-law;

**NOW THEREFORE** The Corporation of the Township of Champlain enacts as follows:

#### 1. TITLE

This By-law shall be cited as the "Fence By-law".

#### 2. DEFINITIONS

- 2.1 **"Chief Building Official"** shall mean the Chief Building Official for the Township of Champlain;
- 2.2 **"Construct" - "Erect"** shall mean to 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 fence by an addition, extension or other structural change;
- 2.3 **"Existing"** shall mean existing as of the date of the passing of this By-law;
- 2.4 **"Fence"** shall mean any structure constructed of chain link metal, wood, stone, metal, brick, or other similar material having an equivalent degree of strength, or a combination of such materials, which is erected for the purpose of screening, safeguarding, retaining or enclosing property, persons, livestock, pets or material, or for delineating property lines;
- 2.5 **"Front Lot Line"** shall mean the same as defined in the Township's Zoning By-law(s);
- 2.6 **"Gate"** shall mean a swinging or sliding barrier used to fill or close an access to a fence;
- 2.7 **"Grade"** shall mean the elevation of the finished surfaces of the ground immediately surrounding a fence;
- 2.8 **"Non-conforming"** shall mean a building or structure which does not conform, comply, or agree with the regulations of this By-law on the date of final passing thereof;
- 2.9 **"Person"** shall mean any individual, group, association or corporation;
- 2.10 **"Yard, Front"** shall mean the same as defined in the Township's Zoning By-law(s);

- 2.11 **“Yard, Required Front”** shall mean the minimum front yard required in a particular zone, as prescribed in the Township's Zoning By-law(s);
- 2.12 **“Yard, Rear”** shall mean the same as defined in the Township's Zoning By-law(s);
- 2.13 **“Yard, Side”** shall mean the same as defined in the Township's Zoning By-law(s);
- 2.14 **“Zoning By-law”** shall mean the Township's Zoning By-law(s) as amended or as may be amended from time to time.

### 3. FENCE REGULATIONS

- 3.1 All fences shall be stable, structurally sound, vertical and shall be made of materials of good quality and suitable for the purpose, arranged and supported in an orderly manner commensurate with the design of the entire fence. Workmanship and maintenance shall be such that no defects are visible from any street or property adjoining the property on which the fence is located.
- 3.2 No fence shall be constructed to include material which will, does or may, in the opinion of the Chief Building Official and By-law Enforcement Officer of The Corporation of the Township of Champlain, adversely affect the safety of the public.
- 3.3 No fence shall be erected in a location which will, does or may, in the opinion of the Chief Building Official and By-law Enforcement Officer of The Corporation of the Township of Champlain, adversely affect the safety of the public, or affect the safety of vehicular or pedestrian traffic.
- 3.4 No fence shall be permitted that obscures a clear view at street intersections, pedestrian pathways, driveways, railway tracks or other points of access or egress of vehicular or pedestrian traffic, and any fence that does not conform to the “Sight Triangle” requirements of the Township's Zoning By-law(s) is deemed to contravene this requirement.
- 3.5 No electric current which is intended to give an electric shock shall be used as a part of or in conjunction with any fence except that this shall not apply to farm fences on lands used for agricultural purposes and that said fence shall not abut a residential area.
- 3.6 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 owners on adjacent properties, then both sides of the fence must be equally “finished” along the shared portion.
- 3.7 No electric fencing and/or barbed wire fence or fence constructed to include material which will, does or may adversely affect the safety of the public shall be used as a part of or in conjunction with any fence abutting a residential property.
- 3.8 Barbed wire or electric fences shall be permitted only where used for the confinement of animals for agricultural purposes, or for prohibiting the entry of persons upon property having thereon dangerous or hazardous situations, i.e., abandoned pit, quarry, pond. Where barbed wire or electric fencing is used for the aforementioned reasons, the owner or occupant of land erecting such fencing shall keep, clearly posted, bilingual signs warning persons of the presence of barbed wire or electric fencing.

## 4. FENCE HEIGHT REGULATIONS

### 4.1 Residential Uses

- (1) No landowner shall erect, have, permit or maintain upon their residential property a fence exceeding 2 metres in height in any side yard or rear yard or exceeding 1.2 metre in height in any front yard, except that:
- i) this height restriction shall not apply where such property is abutting a non-residential property, and such fence is contiguous to the non-residential property, but in no event shall such fence exceed a height of 2.5 metres;
  - ii) fences around tennis courts, in other than a required front yard, may be erected to a height of 3.7 metres;
  - iii) where there is a grade difference between the two sides of the fence, the height of a fence shall be measured from the higher grade to the top of the fence;
  - iv) where a residential property is abutting and its fence is abutting a road having a grade level at the crown of the road which is higher than that at the base of the fence, the maximum height restriction shall be measured from the crown of the road to the top of the fence, but in no event shall such fence exceed a height of 2.5 metres as measured from the base to the top of the fence;
  - v) where required front yards differ between two adjoining lots, a fence of a maximum height of 2 metres may be erected on and extended along the lot line between such lots, to the point of the lesser of the two required front yards of the adjoining lots.

### 4.2 Non-Residential Uses

- (1) No person shall erect, have, permit or maintain, upon a non-residential property, a fence exceeding 2.5 metres in height in any side yard, front or rear yard, provided that:
- i) the height of a fence shall be measured from the higher grade to the top of the fence where there is a grade difference between the two sides of the fence;
  - ii) fences around tennis courts on lands used for non-residential purposes may be erected to a height of 4.3 metres;
  - iii) the Council of the Corporation of the Township of Champlain may approve otherwise under an application for approval pursuant to Section 41 of the Planning Act, R.S.O. 1990.
- (2) No person shall erect, have, permit or maintain upon non-residential properties any fence in a required front yard except if approved by the Council of the Corporation of the Township of Champlain, under an application for approval pursuant to Section 41 of the Planning Act, R.S.O. 1990.

- (3) Notwithstanding any other height restriction or location for fences in this By-law, where it is necessary for the safety of the public in respect to such uses as high voltage substations, storage of explosive materials and similar materials of a hazardous nature, a fence may be permitted to whatever height is necessary to ensure such safety. The owner or occupant of the land erecting such fencing shall keep clearly posted, bilingual signs warning persons of the presence of the potential hazard.

## 5. FENCE ERECTION ON TOWNSHIP PROPERTY

There are no provisions in this By-law to restrict the Township from entering into an Agreement with a property owner(s) to allow the erection of a fence on Township owned lands, provided that the Township lands abut the front, rear or side lot lines of the property owner(s) made a party to such an Agreement.

## 6. FENCE PERMIT REQUIREMENTS

Except for agricultural purposes (i.e.: enclosing livestock, delimiting property lines, separating farm lands, etc.), a permit is required for the erection of a fence and such permit shall be issued by the Chief Building Official.

Every person, when applying for a fence permit, must file an application to construct a fence along with a site plan indicating the location of the fence and he or she must ensure that the fence is located within the side, rear and front lines of the said property, as listed in Schedule "A" of this By-law.

The fee payable upon the issuance of each permit and on any renewal or re-issued permit shall be the sum as set out in Schedule "B".

## 7. APPLICATION

- 7.1 This By-law shall apply to all lands located within the geographical limits of the Township of Champlain.
- 7.2 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.

## 8. PENALTIES

Any person who contravenes any provision of this By-law is guilty of an offense and upon conviction thereof is liable to a fine as provided for in the Provincial Offenses Act.

## 9. VALIDITY

If any section, clause or provision of this By-law is, for any reason, declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part hereof other than the section, clause or provision so declared to be invalid, and it is hereby declared to be the intention that all the remaining sections, clauses and provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions hereof shall have been declared to be invalid.

**10. ADMINISTRATION AND ENFORCEMENT**

This By-law shall be administered and enforced by the Chief Building Official and By-law Enforcement Officer.

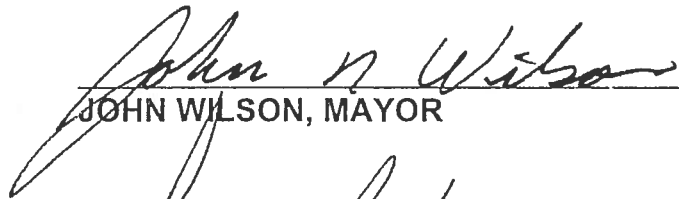
**11. REPEALING SECTION**

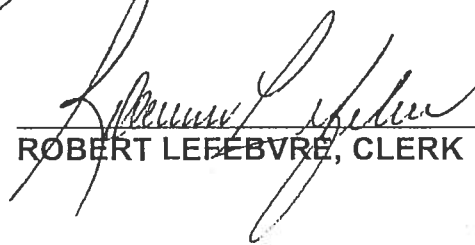
All By-laws and/or resolutions of the former Municipal Councils of the Corporation of the town of Vankleek Hill, of the Corporation of the Village of L'Orignal, including the Corporations of the Townships of Longueuil and West Hawkesbury, inconsistent with the foregoing be and they are hereby repealed.

**12. APPROVAL**

This By-law shall come into force and effect on the date of its final passing.

**READ** a first, second and third time and duly adopted on the 28th day of March, 2000.

  
\_\_\_\_\_  
JOHN WILSON, MAYOR

  
\_\_\_\_\_  
ROBERT LEFEBVRE, CLERK

I, Robert Lefebvre, Clerk-Treasurer of the Township of Champlain, do hereby certify the foregoing to be a true copy of By-Law Number 2000-35 duly adopted by the Council of the Corporation of the Township of Champlain on March 28<sup>th</sup>, 2000.

March 30th, 2000  
Date certified

\_\_\_\_\_  
Robert Lefebvre, Clerk-Treasurer