



THE CORPORATION OF THE CITY OF THUNDER BAY

BY-LAW NUMBER ..314.... 19..94..

A BY-LAW REGULATING FENCES WITHIN
THE CITY OF THUNDER BAY

WHEREAS paragraph 210.25 of the Municipal Act authorizes Councils of local municipalities to pass by-laws which prescribe the height and description of lawful fences;

AND WHEREAS paragraph 210.26 of the Municipal Act authorizes Councils of local municipalities to pass by-laws which prescribe the height and description of, and the manner of maintaining, keeping up, and laying down, fences along highways or parts thereof;

AND WHEREAS paragraph 210.28 of the Municipal Act authorizes Councils of local municipalities to pass by-laws for requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or other barbed material and for prohibiting or regulating the erection of fences made wholly or partly of barbed wire or other barbed materials;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF
THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this by-law, the following definitions shall apply:

- (a) "corner lot" means, in the case of a lot having three or more lot lines, a lot which is situate at the intersection of and abutting on two street allowances or on two parts of the same street allowance which contain an angle of intersection of 135 degrees or less. The angle of intersection shall be determined at the point where the street lines or projections thereof abutting the street allowance or street allowances intersect. The corner point of a lot shall be the point of intersection or the point nearest to the point of intersection of the projection of the street lines.
- (b) "Corporation" means The Corporation of the City of Thunder Bay;
- (c) "fence" includes a hedge or thick growth of shrubs or trees or any other wall or screen acting as a continuous barrier which is other than an essential component to a building;
- (d) "front lot line" means:
 - (i) interior lot
means the lot line abutting a street allowance;
 - (ii) corner lot
means the shorter lot line abutting a street allowance or where the lot lines abutting the street allowances are the same length, the lot line which affords the principal access;



(iii) through lot

means, in the case of a lot having only two lot lines abutting a street allowance, the shorter lot line abutting a street allowance or where both lot lines abutting the street allowances are the same length, the lot line which affords the principal access. In the case of a lot having more than two lot lines abutting a street allowance, the shortest lot line abutting a street allowance or where two or more of the lot lines abutting a street allowance are the same length, the lot line which affords the principal access, shall be deemed to be the front lot line;

- (e) "front yard" means a yard extending across the full width of the lot between the front lot line and the nearest part of any building or structure or open storage use on the lot;
- (f) "highway" means a street allowance, street, or lane;
- (g) "interior lot" means a lot other than a corner lot or a through lot;
- (h) "intersection" means the area embraced within the prolongation or connection of the lateral street lines of two or more highways that join one another at an angle, whether or not one highway crosses the other;
- (i) "lane" means a public thoroughfare owned by the municipality, an emergency access route, or any other passageway or right-of-way which provides vehicular or pedestrian access to the general public to a street;
- (j) "lot" means a parcel of land which is capable of being legally conveyed pursuant to Section 50 of the Planning Act;
- (k) "lot line" means any boundary of a lot and/or the vertical projection thereof;
- (l) "open construction" includes chain link or lattice or other similar open construction;
- (m) "owner" means the registered owner of one or more lots or a parcel of land;
- (n) "parcel of land" means an area of land held in unity of ownership;
- (o) "person" includes an individual, firm, corporation, association, or partnership;
- (p) "public authority" includes The Corporation of the City of Thunder Bay;
- (q) "rear lot line" means, in the case of a lot having four lot lines, the lot line opposite to the front lot line. In the case of a lot having more than four lot lines, the rear lot line shall be the lot line furthest from and opposite to the front lot line. To determine which lot line is furthest from the front lot line, the distance shall be measured in a straight line from the



mid point of the front lot line to the mid point of the lot lines opposite thereto. Where a lot has less than four lot lines, there shall be no rear lot line;

- (r) "rear yard" means, in the case of a lot having no exterior side yard or yards, a yard extending across the full width of the lot between the rear lot line and the nearest part of any building or structure or open storage use on the lot and in the case of a lot having an exterior side yard or yards, a yard extending from the required exterior side yard to the opposite required exterior side yard, if there is one, or to the opposite interior side lot line between the rear lot line and the nearest part of any building or structure or open storage use on the lot. If there is no rear lot line, there shall be deemed to be no rear yard;
- (s) "residential zone" includes any zone that has the word "residential" in the zone title under the City of Thunder Bay Zoning By-law 177-1983 as amended;
- (t) "side lot line" means a lot line other than a front or rear lot line;
- (u) "side yard" includes:
 - (i) "exterior side yard" means a yard extending from the required front yard to the rear lot line and from the exterior side lot line to the nearest part of any building or structure or open storage use on the lot. In the case of a lot that has no rear lot line, the exterior side yard shall extend from the required front yard to the opposite interior or exterior side lot line;
 - (ii) "interior side yard" means a yard extending from the required front yard to the required rear yard and from the interior side lot line to the nearest part of any building or structure or open storage use on the lot. In the case of a lot that has no rear lot line, the interior side yard shall extend from the required front yard to the opposite required interior or exterior side yard;
- (v) "street" means a public highway or public road under the jurisdiction of either the Corporation or the Province of Ontario, and which is presently open and maintained by the Corporation or Province on a year-round basis, or a street as shown on a plan of subdivision registered after March 16, 1987;
- (w) "street allowance" means a public highway or public road which is owned by either the Corporation or the Province of Ontario, and which may or may not be open and maintained by the Corporation or the Province on a year-round basis;
- (x) "street line" means a lot line dividing a lot from a street allowance;
- (y) "temporary fence" means a fence erected or maintained for a defined and limited period of time and, in no case shall such duration exceed six months unless required to remain by law or by a public authority in the interests of safety.



- (z) "through lot" means a lot other than a corner lot, having two or more lot lines abutting a street allowance.

APPLICATION OF BY-LAW

2. This By-law applies to the whole of the City of Thunder Bay.

CITY PROPERTY

3. No person shall have, permit, construct, erect, or maintain, or cause to have, permit, construct, erect, or maintain, a fence on property of The Corporation of the City of Thunder Bay, including any highway, except with the written consent or authorization of the Corporation.

RESIDENTIAL ZONES

4. No person shall have, permit, construct, erect, or maintain, or cause to have, permit, construct, erect, or maintain a fence in a residential zone that is not in accordance with the City of Thunder Bay Fence Height Regulations ("fence height regulations") contained in Schedule "A" to this by-law, provided that:
- (a) the fence height regulations shall not apply to any fence required by law or by a public authority in the interests of public safety;
 - (b) these fence height regulations shall not apply where such property is abutting and such fence is contiguous to a non-residential property, but in no event shall such fence exceed a height of 2.75 metres.
5. Notwithstanding Section 4, in a residential zone, where grade elevations of adjacent lots differ, that portion of any fence exceeding 1.83 metres in height as measured from the lower of the differing grades shall be constructed of chain link, lattice or similar open construction so as to provide a uniform direct passage of light and air through not less than 60 percent of the surface of that portion of fence exceeding 1.83 metres as measured from the lower grade.
6. Notwithstanding Section 4, in a residential zone, where the grade contours within a lot make compliance with the fence height regulations in Section 4 impossible, a fence may exceed 1.22 metres in height in the front yard, or 1.83 metres in height elsewhere on the lot, provided that the average height of the fence over any 2.44 metre portion does not exceed the said fence height regulations.
7. Notwithstanding Section 4, in a residential zone fences around tennis courts may only be erected in the side or rear yard and to a maximum height of 3.7 metres subject to the following regulations:



- (a) the fence shall be constructed of chain link with adequate posts, support wires and bracing of a corrosion resistant or treated material; and
 - (b) shall not be located closer than .6 metres to any lot line.
8. Nothing in this By-law applies to prohibit the construction in a residential zone of a noise barrier, fence or wall required as a condition of an approval under the Planning Act.

OTHER ZONES

9. In any part of the City of Thunder Bay that is not a residential zone, no person shall have, permit, construct, erect, or maintain, or cause to have, permit, construct, erect, or maintain a fence exceeding 2.75 metres in height unless required by law or by a public authority in the interests of public safety to do so.
10. In any part of the City that is not a residential zone, no person shall have, permit, construct, erect, or maintain, or cause to have, permit, construct, erect, or maintain a fence, other than an unobstructed chain link fence having links of no less than 13.00 square centimetres and which does not otherwise exceed fence height requirements contained in this by-law, that exceeds:
- (a) .77 metres in height if such fence is located within a triangle of which the apex is the highway intersection and two sides extend along the intersecting street lines 4.5 metres from the highway intersection and the third line joins the two.
11. In any part of the City of Thunder Bay that is not a residential zone, fences around tennis courts may be erected to a maximum height of 3.7 metres subject to the following regulations:
- (a) the fence shall be constructed of chain link with adequate posts, support wires and bracing of a corrosion resistant or treated material; and
 - (b) shall not be located closer than .6 metres to any lot line.
12. Notwithstanding Sections 9 - 11, Council may approve otherwise under an application for an approval under the Planning Act.
13. This By-law does not apply to a public authority which erects or causes to erect a noise barrier along a highway or erects or causes to erect any other type of fence along a highway for the purposes of ensuring public safety, noise control, or any other similar purpose.



BARBED WIRE AND ELECTRIC CURRENT FENCES

14. No barbed wire shall be used as a part of or in conjunction with any fence located in a residential zone under any circumstance save and except for a fence constructed or maintained by a public authority in the interests of public safety and upon which the barbed wire is not less than 2.14 metres from the ground or a fence permitted under Section 14 of this By-law.
15. Barbed wire shall be permitted as a part of or in conjunction with any fence located on property other than property in a residential zone provided that:
 - (a) the fence is required by law, for public safety, or the protection of property; and
 - (b) no barbed wire is located less than 2.14 metres in height above the ground.
16. Sections 14 and 15 do not apply to fences actually used for agricultural purposes or the confinement of horses;
17. No razor wire shall be used as a part of or in conjunction with any fence.
18. No fence may be electrified unless the land which it encloses is lawfully used for agricultural purposes.

FENCES - CONSTRUCTION AND MAINTENANCE REQUIREMENTS

19. If a fence is constructed of chain link, it shall:
 - (a) be constructed of galvanized steel wire not less than 2.65 mm diameter (No. 12 gauge) or of minimum 1.89 mm diameter (No. 14 gauge) steel wire covered with vinyl or other approved coating forming a total thickness equivalent to 2.65 mm diameter (No. 12 gauge) galvanized wire; and
 - (b) be supported by a minimum 38 mm diameter galvanized steel posts each securely embedded in concrete to a minimum depth of .6 metres below grade and spaced not more than 3.05 metres on centre. Horizontal top and bottom rails shall be of 31 mm minimum diameter galvanized steel, except that a 6 mm minimum diameter galvanized steel tension rod may be substituted for the bottom horizontal rail.
20. If constructed of wood, the fence shall:
 - (a) be supported by a minimum 89 mm by 89 mm or 125 mm diameter posts each securely embedded to a minimum depth of .6 metres below grade and spaced not more than 3.05 metres on centre. The portion below grade shall be treated with a wood preservative. Horizontal top and bottom rails shall be of a minimum of 38 mm by 89 mm utility grade or better.
21. All fences including masonry, brick, stone and concrete, iron and metal bar fences shall be constructed and maintained in a manner to ensure



safety, structural stability, and resistance to frost action.

22. Fences shall be kept in good repair, be reasonably straight and true, free of graffiti, free from accident hazards, made of materials of good quality and, in the case of fences constructed of wood, protected by paint, preservative, or other weather resistant material.
23. Where a fence is being erected between two lots, unless otherwise agreed between the owners of the said lots, the posts and structural members shall be located on the side of the fence facing the lot whose owner is erecting the fence.

SAFETY

24. No fence shall be constructed which adversely affects the safety of vehicular or pedestrian traffic or constitutes an obstruction of view for vehicular or pedestrian traffic.
25. Notwithstanding any height restriction for fences in this by-law, the Corporation or any public authority with jurisdiction over a specific use or matter may, in writing, permit a fence to whatever height is necessary to ensure public safety.
26. The provisions of this by-law shall not apply to any temporary fence erected or maintained in order to enclose a condition which has been declared unsafe by a public authority.

CALCULATION OF HEIGHT

27. For the purpose of this By-law, the height of any fence is calculated from the mean grade elevation of the ground at the lot lines to the highest point of the fence.
28. Where the level of the ground is altered or the base on which the fence is situate is arranged for the purpose of raising a fence to a height which would otherwise have been unlawful, there shall be included in the calculation of the height of the fence the vertical measurement of the alteration or of the arrangement.

OFFENCE AND PENALTY

29. No person shall have, permit, construct, erect, or maintain or cause to have, permit, construct, erect, or maintain a fence except in accordance with the provisions of this by-law.
30. Every person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty under the Provincial Offences Act.



REPEAL, TRANSITION

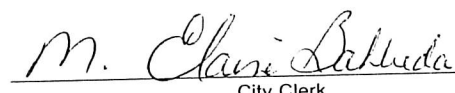
31. Notwithstanding any of the provisions herein, a fence which is required and approved by Council, under the Planning Act shall be deemed to be in conformance with the provisions of this by-law.
32. Save and except for barbed wire fences, razor wire fences, electrified fences and fences which pose a threat to public safety, the height regulations contained in this by-law do not apply to any fence constructed prior to its passage.

FORCE AND EFFECT

33. This by-law shall come into force and take effect upon the final passing hereof.

Enacted and Passed this7th..... day of ...November..., A.D. 1994, as witnessed by the Seal of the Corporation and the hands of its proper Officers.


Mayor


City Clerk

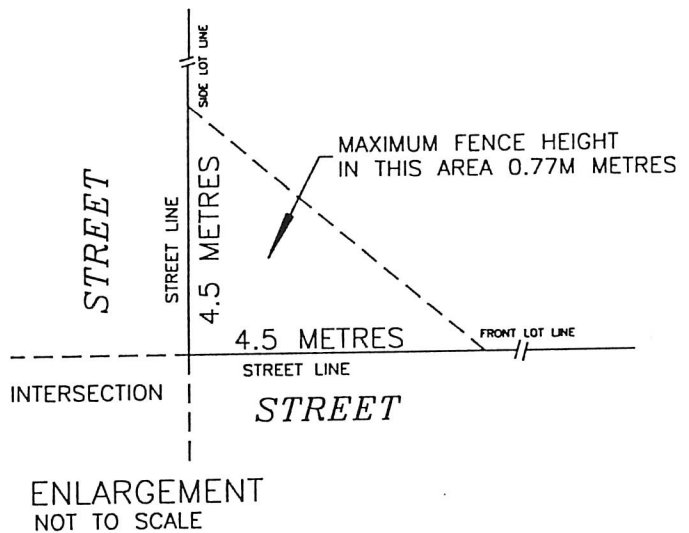
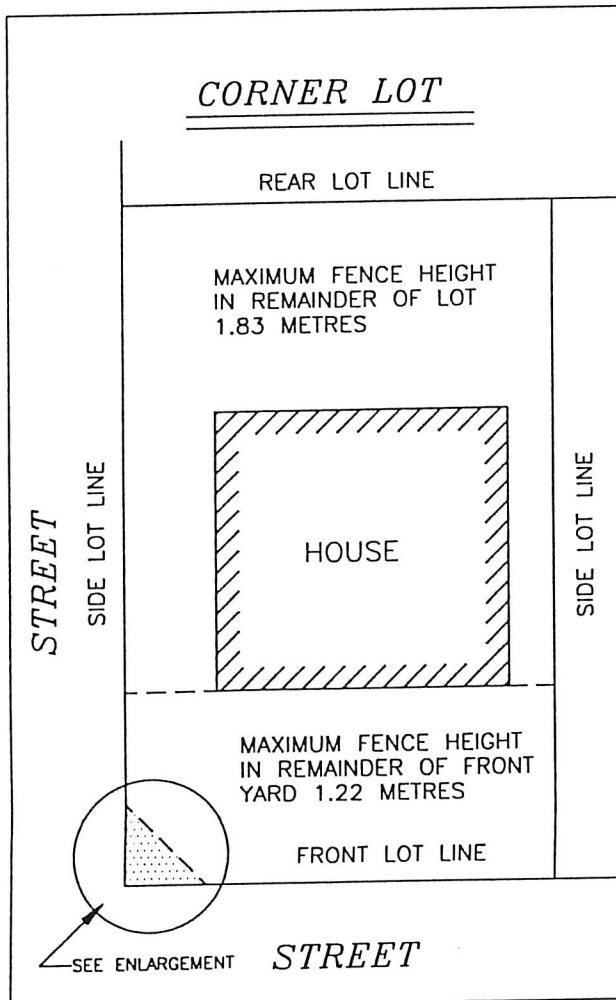
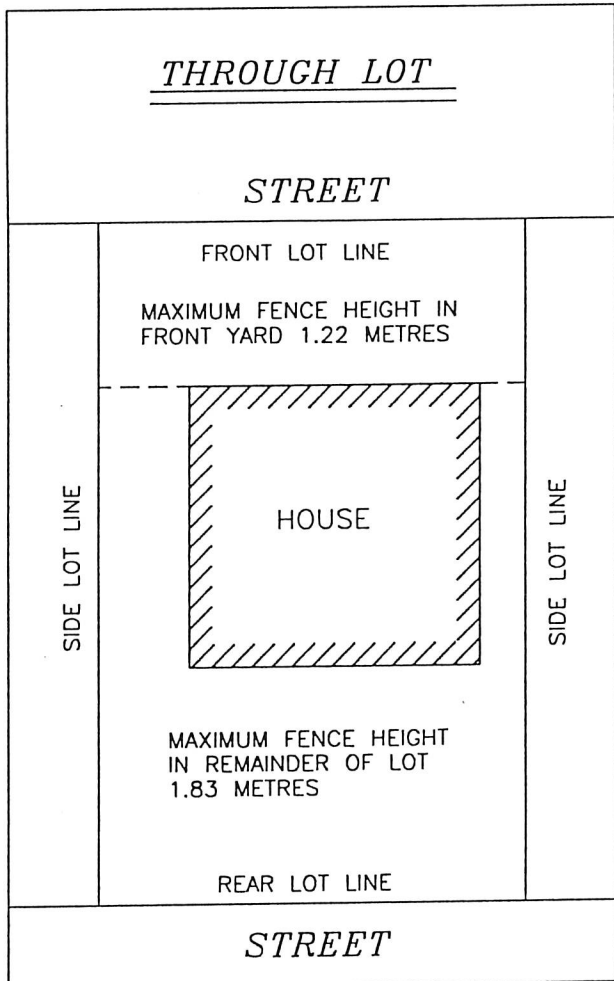
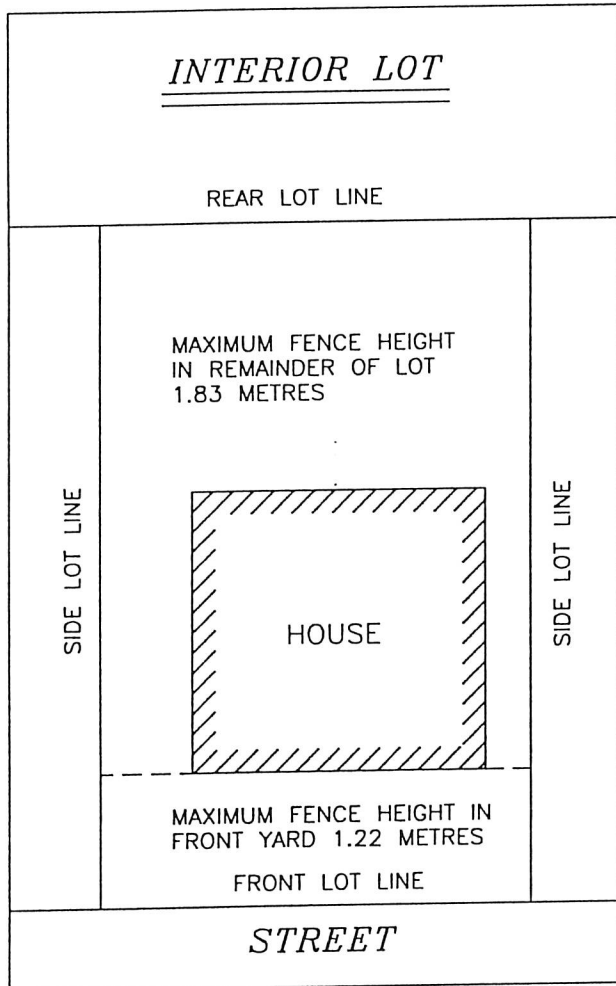
Read a First time this7th..... day ofNovember....., A.D., 1994.

Read a Second time this7th..... day ofNovember....., A.D., 1994.

Read a Third time
and finally passed this7th..... day ofNovember....., A.D., 1994.

CITY OF THUNDER BAY

FENCE HEIGHT REGULATIONS



METRIC: DIMENSIONS SHOWN ON THIS PLAN
ARE IN METRES AND CAN BE
CONVERTED TO FEET BY DIVIDING
BY 0.3048

SCHEDULE "A" TO BY-LAW
NUMBER 314 - 1994

MAYOR

CITY CLERK *M. Claire Salceda*