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Consolidated By-Law

THE CORPORATION OF THE CITY OF THOROLD

BY-LAW NO. 28- 2008

BEING A BY-LAW RESPECTING THE REGULATION FOR THE ERECTION OF FENCES IN THE CITY OF THOROLD

WHEREAS Subsection 11(3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting structures, including fences and signs;

AND WHEREAS Subsection 8(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that the powers of a municipality shall be broadly interpreted so as to confer broad authorities on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to Municipal issues;

AND WHEREAS Section 98 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a local municipality may provide that the Line Fence Act does not apply to all or any part of any municipality;

AND WHEREAS the Council of The Corporation of the City of Thorold deems it expedient to provide that the Line Fences Act does not apply in the City of Thorold;

AND WHEREAS the Council of The Corporation of the City of Thorold deems it expedient to pass a by-law respecting fences in the City of Thorold;

AND WHEREAS the Council of the Corporation of the City of Thorold approved the recommendations of Report PBS2008-31 at a Special Council meeting held April 15, 2008;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF THOROLD ENACTS AS FOLLOWS:

SECTION 1 GENERAL PROVISIONS

1.1 SHORT TITLE

1.1.1 This by-law shall be known as the "Fence By-law".

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1.2 DEFINITIONS

1.2.1 In this by-law:

- (1) "acoustical barrier" means a fence or structure erected to lessen the impact of a source of noise on the surrounding area;
- (2) "agricultural operation" means an agricultural operation as defined by the Farming and Food Production Protection Act;
- (3) "chief building official" means the Chief Building Official appointed by Council under the Building Code Act, S.O. 1992, c.23 as amended, or the person who is appointed to act in that capacity during his or her absence;
- (4) "city" means the Corporation of the City of Thorold or the geographical area of the municipality, as the context requires;
- (5) "corner lot" means a lot which abuts the point of intersection of two (2) street lines of the same street or different streets, where the angle of the intersection does not exceed one hundred and thirty-five degrees [135]. For the purposes of the foregoing definition, where there is a curve instead of a point of intersection:
 - a) the angle of the intersection shall be deemed to be the angle, formed by the intersection of the tangents through the ends of the curve, or through the interior lot lines or through a combination thereof, as the case may require;
 - b) the point of intersection shall be deemed to be that point on the street line nearest to the angle of intersection.
- (6) "division fence" means a fence built on a property line marking the boundary between abutting parcels of land;
- (7) "electric fence" means a fence through which electricity passes;
- (8) "erect" means to conduct any actions involved in the erection, installation, construction, extension or material alteration of a fence;
- (9) "fence" means a vertical structure, including a railing, hedge, line of posts, shrubs, wire, gate, boards or pickets or other similar substances used to enclose or divide in whole or in part a yard or other land or to establish a property boundary line, but does not mean a privacy screen;

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- (10) "fence of closed construction" means a fence constructed so that at least two thirds of its vertical surface is closed space;
- (11) "fence of open construction" means a fence constructed so that at least two thirds of its vertical surface is open space;
- (12) "ground level" means the natural level of the grade immediately adjacent to the fence. Where the ground level is higher on one side of the lot line, the height of the fence shall be measured from the side with the greater height;
- (13) "hedge" means a closely planted row of bushes, shrubs or low trees forming a fence or boundary, but shall not include trees having a caliper dimension of 5 cm (2 in.) or greater;
- (14) "highway" means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- (15) "land" means an area of property and includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them;
- (16) "lot" means any parcel of land which can be alienated or otherwise disposed of separately and apart from any abutting lands, whether or not such parcel is described in a registered deed or shown on a registered plan of survey or subdivision;
- (17) "lot line" means any boundary of a lot, which may consist of one or more lines, straight or curved or both;
- (18) "lot line, exterior side" means the lot line, on a corner lot, which is a street line and not the front lot line;
- (19) "lot line, front" means a street line, provided that:
 - a) where the lot abuts street lines of different lengths, the shorter street line shall be the front lot line;
 - b) where the lot abuts street lines of equal length, the street line facing the principal entrance to the main building shall be the front lot line;

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- c) where the lot abuts two streets which do not intersect, the street line facing the principal entrance to the main building shall be the front lot line and the street line opposite shall be the rear lot line.
- (20) "lot line, interior side" means a lot line which intersects a front lot line and abuts another lot;
- (21) "lot line, rear" means a lot line joining two side lot lines, other than a front lot line;
- (22) "officer" means a Municipal Law Enforcement Officer, a Building Inspector, a Chief Building Official, or other person appointed or employed by the City for enforcement of by-laws and includes both Police and Peace officers;
- (23) "owner" means a person or corporation who legally owns or controls the property under consideration;
- (24) "person" means and includes an individual, firm, corporation, association or partnership and includes an occupant or an owner of a property;
- (25) "privacy screen" means a visual barrier used to shield any part of a yard from view from any adjacent land or highway.
- (26) "property" means any grounds, yard or vacant lands;
- (27) "sight triangle" means that part of a corner lot bounded by two intersecting street lines and a third line drawn from a point in one street line to a point in the other street line, each such point being nine metres [9m] measured along the street line from the point of intersection of the street lines;
- (28) "street line" means the dividing line between a lot and a highway;
- (29) "yard" means land, other than publicly owned land, around and appurtenant to the whole or part of a building and used, or capable of being used in connection with the building.
- (30) "yard, exterior side" means that area of a lot lying between a building and an exterior side lot line, and bounded by a front yard and a rear yard;
- (31) "yard, front" means that area of a lot bounded by:
- a) the front lot line;

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- b) the side lot lines; and
 - c) a horizontal line coinciding with the exterior wall of a building facing the front lot line, produced to intersect the side lot lines.
- (32) "yard, interior side" means that area of a lot lying between a building and an interior side lot line, and bounded by a front yard and a rear yard;
- (33) "yard, rear" means that area of a lot bounded by;
- a) the rear lot line;
 - b) the side lot lines; and
 - c) a horizontal line coinciding with the exterior wall of a building facing the rear lot line, produced to intersect the side lot lines.
- (34) "zone" means an area designated by the City of Thorold Comprehensive Zoning By-Law, as amended, and established by that by-law for a specific use;
- (35) "zone, commercial" means a zone in which the use of land, buildings or structures is for sale of goods, provision of services or the general operation of business and without limiting the generality of the foregoing, may include stores, shops and offices;
- (36) "zone, industrial" means a zone in which the use of land, buildings or structures is for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and materials and related accessory and ancillary uses;
- (37) "zone, institutional" means a zone in which the use of land, buildings or structures is for religious, charitable, educational, health or welfare purposes and without limiting the generality of the foregoing, may include churches, places of worship, public or private schools, public or private hospitals, community centres, and government buildings;
- (38) "zone, residential" means a zone in which the use of land, buildings or structures is for the sleeping or habitation of persons and without limiting the generality of the foregoing, may include dwellings (detached, semi-detached, multi-unit), apartments, and dormitories but shall not include hospitals or care facilities;
- (39) "park" means an area of land consisting of landscaped open spaced, used primarily for active or passive recreational purposed or as a conservation area, with or without related

Subsections
1.2 (39) and
(40) added
through By-
law No. 07-
2009

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recreational buildings, structure or facilities, and including but not necessarily restricted to a recreational playground, a play area, a tennis court, a playfield or a swimming area, and shall be zoned either Open Space or Institutional;

- (40) "utility corridor" means an area of land used primarily for utility purposes with or without related buildings, structures f facilities and including but not necessarily restricted to hydro or railway lands.

1.3 INTERPRETATION

1.3.1 In this by-law statutory references are to statutes of Ontario and the regulations made thereunder and shall be deemed to refer to such statutes and regulations as amended, consolidated, re-enacted and in force from time to time.

1.3.2 In this by-law the numbering system shall be referenced in accordance with the following:

- 1 section
- 1.1 subsection
- 1.1.1 article
- 1.1.1(1) sentence
- 1.1.1(1)(a) clause
- 1.1.1(1)(a)(i) subclause

1.3.3 This by-law shall be read with all changes of gender and number required by the context or circumstances.

1.4 APPLICATION

1.4.1 This by-law is applicable to all property within the boundaries of the City of Thorold.

1.4.2 Notwithstanding 1.4.1 above, Council may exempt a property within the City of Thorold from all or part of this by-law as specified in the exemption.

1.4.3 Particulars of exemptions approved by Council under this By-law shall be listed in Schedule "A" to this By-law.

Subsections
1.4.1 and
1.1.2 added
through By-
law No. 07-
2009

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1.5 EXEMPTION

- 1.5.1 The erection of an acoustical barrier shall be exempt from the provisions of this by-law provided it is erected under approval or requirement of an Engineering agreement or similar agreement, or as a local improvement.
- 1.5.2 Save and except the requirements of subsection 2.4 of this by-law, the persons listed below shall be exempt from the remaining provisions of this by-law:
- (1) the Corporation of the City of Thorold
 - (2) the Regional Municipality of Niagara
 - (3) any provider of utility services (telecommunications, gas, electric or water)
 - (4) the Seaway Authority
 - (5) any Department or Ministry of the Federal or Provincial Government
 - (6) the District School Board of Niagara
 - (7) the Niagara Catholic District School Board
- 1.5.3 Any fence temporarily erected to protect any excavation, construction site, or any emergency or hazardous area shall be exempt from the provisions of this by-law.
- 1.5.4 Any fence or privacy screen constructed in accordance with an approved site plan agreement shall be exempt from the provisions of this by-law.
- 1.5.5 Any fence erected, constructed or maintained along any limit of a highway having a width of not less than 40.23 m [132 ft.] shall be exempt from the provisions of this by-law provided it is erected, constructed or maintained within the property operated as the highway.

SECTION 2 FENCES

2.1 GENERAL PROHIBITIONS

- 2.1.1 No person shall, without statutory authority so to do, erect or cause to be erected, any fence on any lands owned by the City or on any highway or road allowance.

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- 2.1.2 Any fence, pole, post, pillar or wire or other construction erected, constructed or maintained contrary to the provisions of article 2.1.1 of this by-law, shall be removed by the person upon whom notice is served within two (2) weeks after receipt of notice, in writing, served upon the owner or occupier of the adjoining premises by registered mail and in the event of non-compliance with such notice the Chief Building Official may cause the same to be removed at expense of the said owner or occupier and such expense shall be a debt due by such owner or occupier to the City and the same may be recovered in like manner to municipal taxes.
- 2.1.3 Any fence enclosing an outdoor swimming pool shall be subject to the requirements of the City of Thorold Pool By-law, as amended, and where this by-law conflicts with the Pool By-law, the most restrictive of the two shall apply.
- 2.1.4 No person shall erect or cause to be erected any fence, hedge or privacy screen which is prohibited by the provisions of this by-law.
- 2.1.5 No person shall erect or cause to be erected any fence, hedge or privacy screen in any residential zone which is constructed in whole or in part of sheet metal or corrugated metal panel members.
- 2.1.6 No person shall erect, or cause to be erected, or keep in any yard, or on any land within the City, a fence, hedge or privacy screen which is not in a good state of repair and is not in accordance with the provisions of the City of Thorold Property Standards By-law, as amended.
- 2.1.7 Where a lot line is shared between a non-residential zone and a residential zone, the provisions of this by-law regarding fences in commercial zones may prevail.
- 2.1.8 No person shall hinder or obstruct an Officer, appointed under this by-law or employed to enforce by-laws for the City of Thorold, from carrying out an inspection of land.
- 2.1.9 In respect of any fence which has been erected using, in whole or in part, any material or materials which are prohibited by this subsection, and which is in existence as of the date of enactment of this by-law, or which may come into existence at any later date, the owner of the property upon which the fence is situated shall remove such fence within ninety (90) days from the date of receiving a notice from the municipality to do so.
- 2.1.10 Where a lot line is shared between a residential zone and a park or utility corridor, the maximum height of the fence permitted by Sentence 2.2.1(1) shall be increased to 2.3 metres (7.5 feet) high.

Section
2.1.7
amended
through By-
law 60-2018

Section
2.1.10
added
through By-
law 07-2009

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2.2 HEIGHT AND LOCATION

2.2.1 No person shall erect or cause to be erected on any lot in the following zones, a fence which is greater than the stipulated height above ground level:

- (1) residential zone 2m [6.5 ft.] high
- (2) institutional zone, commercial zone 2.4m [8 ft.] high
- (3) industrial zone 3.0m [9.8 ft.] high

2.2.2 The provisions of article 2.2.1 do not apply to a person who erects or causes to be erected a hedge, provided that the hedge does not exceed 3m [9.8 ft.] in height above ground level.

2.2.3 The provisions of article 2.2.1 do not apply to a person who erects or causes to be erected a privately owned outdoor tennis court, provided it is a fence of open construction.

2.3 FENCES IN FRONT YARDS

2.3.1 Notwithstanding the provisions of subsection 2.2, no person shall erect or cause to be erected within 4.5m [14.75 ft.] of the nearest street line in a front yard:

- (1) a fence of closed construction or a hedge which is greater than 0.9m [3 ft.] in height above ground level, or
- (2) a fence of open construction which is greater than 1.2m [4 ft.] in height above ground level.

2.3.2 The provisions of article 2.3.1 do not apply to the erection of an ornamental gateway, entranceway or similar structure.

2.3.3 The provisions of article 2.3.1 do not apply to the erection of a fence on any land in an industrial zone provided it is a fence of open construction.

2.3.4 Where a building or a part of a building is closer to the street line than 4.5m [14.75 ft.], the nearest distance shall prevail.

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2.4 FENCES IN SIGHT TRIANGLES

- 2.4.1 No person shall erect or cause to be erected, in any yard or on any land, a fence within a sight triangle unless such a fence is a fence of open construction and does not obstruct the visibility through the sight triangle, and the height of the fence does not exceed 0.9m [3 ft.] above ground level.

2.5 DIVISION FENCES

- 2.5.1 Each of the owners of adjoining occupied land shall repair, replace or maintain a just proportion of any division fence heretofore or hereafter erected which marks the boundary of their respective properties, or shall bear a just proportion of the cost of any work or erection, repair, replacement or maintenance which has been carried out.
- 2.5.2 Where owners of adjoining land cannot agree on the type or kind of fence to be erected between them as provided by article 2.5.1 of this by-law, no contribution to the cost thereof shall be payable unless the party erecting the fence constructs a chain link fence 1.22m [4 ft.] in height. Only upon such fence being constructed shall the provisions of article 2.5.1 of this by-law apply respecting the apportionment of costs of the said fence. In the event any other type or kind of fence is erected, there shall be no apportionment of costs with respect thereto but where repair or maintenance is carried out under this by-law, a just proportion of the cost of the work may be recovered under article 2.5.3 of this by-law.
- 2.5.3 An owner desiring to enforce the provisions of article 2.5.1 and 2.5.2 of this by-law shall deliver to the owner or occupant of the adjoining land a notice by registered mail requiring him to comply with the by-law and if such compliance does not take place within thirty (30) days after service of the notice, the owner serving the notice, may do the work that the by-law authorizes and may, pursuant to the Provincial Offences Act, take the proceedings to recover the value of the work and the cost, from the said adjoining owner or occupant.

2.6 ELECTRIC FENCES

- 2.6.1 No person shall erect or cause to be erected an electric fence.
- 2.6.2 Notwithstanding the provisions of article 2.6.1, an electric fence using direct current may be erected on land while it is being lawfully used for an agricultural operation, provided such fence:
- (1) has a maximum 12-volt trickle charge;

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- (2) is designed and erected solely to contain animals; and
- (3) has attached thereto at intervals not to exceed 15m [49.2 ft.], a sign warning that the fence carries electricity.

2.7 BARBED WIRE

- 2.7.1 No person shall erect or cause to be erected or maintained any fence composed wholly or partially of barbed wire, metal spikes or other sharp or pointed materials, within the City of Thorold provided, however, that barbed wire, metal spikes or any other sharp or pointed material may be used on land while it is being lawfully used for an agricultural operation.
- 2.7.2 No person shall erect or cause to be erected or maintained any fence composed wholly or partially of barbed wire, metal spikes or other sharp or pointed materials on any lands located in a Residential Zone.
- 2.7.3 Notwithstanding the provisions of article 2.7.1, a fence containing barbed wire is permitted to be erected in an industrial zone provided that the portion of fence containing barbed wire is greater than 1.8m [6 ft.] above ground level.

2.8 USED VEHICLE TIRES

- 2.8.1 No person shall erect or cause to be erected any fence composed wholly or partially of used vehicle tires on any property within the City of Thorold.
- 2.8.2 No person shall maintain or keep, cause to be maintained or kept, any fence composed wholly or partially of used vehicle tires on any property within the City of Thorold.

SECTION 3 PRIVACY SCREENS

3.1 GENERAL PROHIBITIONS

- 3.1.1 No person shall erect or cause to be erected, any privacy screen on any lands owned by the City or on any highway or road allowance without having entered into an encroachment agreement with the City.
- 3.1.2 In respect of any privacy screen which has been erected using, in whole or in part, any material or materials which are prohibited by this subsection, and which is in existence as

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of the date of enactment of this by-law, or which may come into existence at any later date, the owner of the property upon which the privacy screen is situated shall remove such privacy screen within ninety (90) days from the date of receiving a notice from the municipality to do so.

3.2 HEIGHT

3.2.1 No person shall erect or cause to be erected on any yard or on any land, a privacy screen which is greater than 3m [9.8 ft.] above ground level.

3.3 PRIVACY SCREENS IN FRONT YARDS

3.3.1 No person shall erect or cause to be erected a privacy screen in a front yard.

3.4 PRIVACY SCREENS IN SIDE AND REAR YARDS

3.4.1 No person shall erect or cause to be erected a privacy screen in any side yard or rear yard which is:

- (1) less than 4.5m [14.75 ft.] from any street line;
- (2) less than 1.2m [4 ft.] from the rear lot line; and
- (3) less than 1.2m [4 ft.] from any interior side lot line, provided however, that where the privacy screen is located so as to provide a visual barrier between dwelling units divided by a common wall, a privacy screen may be placed closer to the common interior side lot line.

3.5 PRIVACY SCREENS IN SIGHT TRIANGLES

3.5.1 No person shall erect or cause to be erected, in any yard or on any land, a privacy screen within a sight triangle.

3.6 USED VEHICLE TIRES

3.6.1 No person shall erect or cause to be erected any privacy screen composed wholly or partially of used vehicle tires on any property within the City of Thorold.

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- 3.6.2 No person shall maintain or keep, cause to be maintained or kept, any privacy screen composed wholly or partially of used vehicle tires on any property within the City of Thorold.

SECTION 4 ADMINISTRATION AND ENFORCEMENT

4.1 LINE FENCES ACT

- 4.1.1 From and after the coming into effect of this by-law, the Line Fences Act shall no longer apply in the City of Thorold.

4.2 ENFORCEMENT

- 4.2.1 The Chief Building Official or an Officer may inspect the land or structures, for the purpose of determining whether there is compliance with any provision of this by-law.
- 4.2.2 Every owner or occupant shall permit the Chief Building Official, or an Officer employed, upon production of identification and for the purpose of the inspection by the City, to inspect the land or structure for the purpose of article 4.1.1.

4.3 PENALTIES

- 4.3.1 Each Person and/or corporation who contravenes a provision of this By-law shall:

- a) when given a penalty Notice in accordance with the City of Thorold's Administrative Penalty By-law, be liable to the City an Administrative Penalty in the amount specified by the Administrative penalty By-law, for each day or part of a day on which the contravention continued; or
- b) upon convictions be liable to fines as provided for in the Provincial Offences Act, R.S.O. 1990 c. P. 33, as amended.

Section 4.3.1 amended through By-law 148-2009.

4.4 VALIDITY

- 4.4.1 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and

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enforced in accordance with its terms to the extent possible under the law so as to protect the public.

- 4.4.2 Where a provision of this by-law conflicts with the provision of another by-law, Act, or Regulation in force within the City of Thorold, the provisions that establish the higher standards to protect the health and safety of persons shall prevail.

SECTION 5 ENACTMENT

5.1 DATE OF ENACTMENT

- 5.1.1 This by-law shall come into force and effect on the day after it is passed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED BY COUNCIL THIS 15TH DAY OF APRIL 2008.

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Schedule “A” added through By-law 07-2009

SCHEDULE “A” OF BY-LAW 08-2009

Properties Exempted from all or part of By-law 28-2008

Amending By-law #	Municipal Address	Description	Nature of Exemption
08-2009	6 Shriner St.	Plan 17 Lot 7 NP903	Section 2.3 Fences and Front Yard. Fence in front yard permitted at 7.5 feet Section 2.4 Fences in Sight Triangles. A portion of the 7.5-foot fence permitted in sight triangle
32-2014	67 Queen St. S.	Plan 11 Block F Pt Lot 56	Section 2.2.1 Height and Location. The maximum height of the fence along the northerly property line from the rear fence line extending easterly a distance of fifty-four (54) feet shall be eight (8) feet in height.
28-2008 <i>(added to section 2.7.1 – added to Schedule “A” for organization purposes)</i>	18 Parkdale Dr.	Plan 917 Lot 12	Section 2.3.1 Fences in Front Yards. The maximum height of the fence in the front yard shall be four (4) feet.