

# The Corporation of The Town Of Essex

## By-Law Number 384

### Being a By-Law respecting fences to be erected within the municipal limits of the Town of Essex.

Whereas, Section 210 (25) of the Municipal Act, R.S.O. 1990 and amendments thereto, provides that By-Laws may be passed by Councils of local municipalities for prescribing the height and description of lawful fences;

And Whereas, the Council of the Town of Essex deems it expedient to pass such a By-Law;

Now therefore the council of the Corporation of the Town of Essex enacts as follows:

#### Definitions

1. In this By-Law;

**"Building Inspector"** shall mean the Building Inspector for the Town of Essex.

**"Corporation"** means the Corporation of the Town of Essex.

**"Council"** means the Municipal Council of the Corporation of the Town of Essex.

**"Farm Fence"** means a fence erected for the purpose of containing livestock, enclosing crops, water areas, wood lots, buildings, fields or laneways for the operation of agriculture.

**"Fence Height"** means the measurement from the base of the fence or grade of the adjacent ground to the finished top of the fence.

- i) In the case of a fence required to restrict access to a private outdoor swimming pool, the minimum height required shall be measured at the outside wall or side of the required fence.
- ii) Where the fence required for a private outdoor swimming pool will abut an existing embankment, retaining wall, climbable fence or other structure, such that the purpose of the fence is negated, the minimum separation of 1.5 meters (five feet) is required from such existing embankment, retaining wall, climbable fence or other structure.
- iii) Notwithstanding the above, where the grade at the fence location is irregular, the fence height shall be the measurement from the mean of the grade of the adjacent ground to the mean of the finished top of the fence.

**"Fence Line"** means the fence line or location of the fence and shall be measured to the front or outside face of the fence or supports. Where a fence is constructed on a property line the outside face or front of the fence shall be parallel to the property line and the vertical elevation of the fence shall not exceed an angle of 90 degrees, the angle to be measured between the vertical elevation and the property of the fence owner. For the purpose of this provision, the grade of the property is to be assumed as level.

**"Front Yard"** shall mean a yard extending across the full width of any lot or parcel between the front lot line and the nearest wall or any building or structures on the lot or parcel.

**"Ground Level"** means the ground level at the base of the fence but where the ground levels are not the same on both sides of the base of the fence, the higher of such levels shall be considered as ground level for the purposes of the fence.

**"Hedge"** means a continuous line of planting or plant material, shrubs or trees arranged to form a fence or boundary.

**“Highway”** shall mean and include a common and public highway, street, avenue, parkway, driveway, square or place designed and intended for or used by the general public for the passage of vehicles, but shall not include an alley.

**“Intersection”** shall mean the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of two or more highways that join one another at an angle, whether or not one highway crosses the other.

**“Lawful Fence”** means a structure of vertical or horizontal members erected as a barrier, enclosure, or demarcation along any street, highway or property line or separating or purporting to separate any parcel of land from the parcel of land immediately adjacent thereto, but shall not include an unlawful fence.

**“Town”** means the geographical area within the municipal boundary limits of the Town of Essex.

**“Unlawful Fence”** means a fence constructed in whole or in part or used vehicle tires, pallets or other used material.

### **General Prohibitions**

2. No person shall erect or cause to be erected any fence within the Town of Essex unless such person shall have first obtained a permit for the erection of such fence from the Building Inspector and having paid the prescribed fee as set forth in the Corporation’s Building Permit Fee By-Law.
3. No person shall maintain or cause to be maintained within the Town of Essex any fence other than a lawful fence.

### **Permitted Fences**

4. The Building Inspector shall not issue a permit for the erection of any fence unless such proposed fence is a lawful fence, and no fence in any district zoned as a residential district in the Corporation’s Zoning By-Law shall be deemed to be a lawful fence unless such fence is of chain link construction or wire-fence construction or a privacy board fence, all or which types are not out of conformity with the neighbourhood.
5. No person shall erect or cause to be erected, or maintain or cause to be maintained any fence, which is inherently dangerous. All fences along highways shall be maintained in a good state of repair and in a safe condition. Any fence, except a hedge, under a height of 0.6 meters (two feet) above the level of the nearest adjacent sidewalk, and in the absence of any sidewalk above the adjoining ground level, shall be deemed to be inherently dangerous.
6. No person shall erect or maintain, or cause to be erected or maintained any fence from the waters edge to the average line of setback from Lake Erie unless the said fence is restricted to a maximum height of 1.2 meters (four feet).
7. No person shall erect or maintain, or cause to be erected or maintained any fence or hedge higher than 0.5 meters (twenty inches) as measured from the centerline grade of the road abutting such fence or hedge on a corner lot, within the triangular space formed by the outer edge of the street pavement, curblin or traveled portion of the roadway for a distance of 9.0 meters (thirty feet) from their point of intersection unless such fence or hedge is constructed in such a manner that it can easily be seen through such as a chain link fence.
8. Subject to the provisions of Section 7 of this By-Law, no person shall erect or maintain or cause to be erected or maintained any fence in any front yard of a greater height than 1.2 meters (four feet) above the level of the nearest adjacent sidewalk, and in the absence of any sidewalk, above the adjoining ground level.

9. Subject to the provisions of Section 7 of this By-Law, no person shall erect or maintain or cause to be erected or maintained any fence in any side or rear yard greater than 1.8 meters (six feet) in height above the adjoining ground level.
10. No person shall erect or maintain or cause to be erected or maintained any fence composed wholly or partly of barbed wire or other barbed material, along any alley or highway within the Town of Essex, provided, however, barbed wire or other barbed material may be permitted to be used along the top of any fence enclosing commercial or industrial property, if such fence is 2.2 meters (seven feet) in height or greater, and in the case of agricultural property, if such fence is 1.8 meters (five feet) in height or greater.
11. Notwithstanding the provisions of any other sections of this By-Law, except Section 7 thereof, a wire fence, not exceeding 2.5 meters (eight feet) in height above adjoining ground level shall be permitted around the perimeter of any parcel of land used for commercial or industrial purposes.
12. The owner or owners of any fence in existence at the date of the final passing of this By-Law which is not in accordance with the provisions of the By-Law, shall cause any such fence to accord and comply with the provisions of this By-Law within six (6) months from the date of the final passing of this By-Law. Provided, however, any fence presently in existence, not exceeding 2.5 meters (eight feet) in height along the rear lot line of any property used for residential purposes shall not be deemed to be in violation of the provisions of this By-Law, but any portion of such fence within 9.0 meters (thirty feet) of any roadway intersection shall comply with the provisions of Section 7 of this By-Law.

#### **Enforcement**

13. The Building Inspector shall enforce the provisions of this By-Law or other such person or persons as designated by Council.

#### **Penalties**

14. Every person who contravenes any provision of this By-Law is guilty of an offence and shall, upon conviction thereof, be liable to a fine of not more than \$5,000.00, recoverable under the Provincial Offences Act, R.S.O. c. P. 33, as amended.

#### **Repeal**

15. Any By-Law or parts of any By-Law of the former Corporation of the Town of Essex, the former Corporation of the Township of Colchester North, the former Township of Colchester South or the former Town of Harrow, inconsistent with this By-Law, are hereby repealed.

#### **Enactment**

16. This By-Law shall come into force and take effect on the day of the final passing thereof.

Read a first and second time this 7<sup>th</sup> day of January, 2002.

Read a third time and finally passed this 7<sup>th</sup> day of January, 2002.

---

Deputy-Mayor

---

Clerk

**Part 1 Provincial Offences Act  
THE CORPORATION OF THE TOWN OF ESSEX  
BY-LAW #384**

Being a By-Law respecting fences to be erected  
Within the municipal limits of the Town of Essex.

COLUMN 1	COLUMN 2	COLUMN 3
ITEM	OFFENCE CREATING PROVISION OR DEFINING OFFENCE	SET FINE (includes costs)
1. Erect fence without permit	2	\$105.00
2. Cause fence to be erected without permit	2	\$105.00
3. Maintain unlawful fence	3	\$105.00
4. Cause to maintain unlawful fence	3	\$105.00
5. Residential zone-unlawful fence	4	\$105.00
6. Erect inherently dangerous fence	5	\$105.00
7. Cause to be erected inherently dangerous fence	5	\$105.00
8. Maintain inherently dangerous fence	5	\$105.00
9. Cause to be maintained inherently dangerous fence	5	\$105.00
10. Fail to maintain fence in good repair	5	\$105.00
11. Fail to maintain fence in safe condition	5	\$105.00
12. Erect fence too close to Lake Erie-improper height	6	\$105.00
13. Maintain fence too close to Lake Erie-improper height	6	\$105.00
14. Cause to be erected fence too close to Lake Erie-improper height	6	\$105.00
15. Cause to be maintained fence too close to Lake Erie-improper height	6	\$105.00
16. Erect improper fence within 9 meters of intersection	7	\$105.00
17. Maintain improper fence within 9 meters of intersection	7	\$105.00
18. Cause to be erected improper fence within 9 meters of intersection	7	\$105.00
19. Cause to be maintained improper fence within 9 meters of intersection	7	\$105.00
20. Erect fence in front yard-improper height	8	\$105.00
21. Maintain fence in front yard-improper height	8	\$105.00
22. Cause to be erected fence in front yard-improper height	8	\$105.00
23. Cause to be maintained fence in front yard-improper height	8	\$105.00
24. Erect fence in rear yard-improper height	9	\$105.00

ON

COLUMN 1		COLUMN 2	COLUMN 3
ITEM	SHORT FORM WORDING	OFFENCE CREATING PROVISION OR DEFINING OFFENCE	SET FINE (includes costs)
25.	Maintain fence in rear yard-improper height	9	\$105.00
26.	Cause to be erected fence in rear yard-improper height	9	\$105.00
27.	Cause to be maintained fence in rear yard-improper height	9	\$105.00
28.	Erect fence in side yard-improper height	9	\$105.00
29.	Maintain fence in side yard-improper height	9	\$105.00
29.	Cause to be erected fence in side yard-improper height	9	\$105.00
31.	Cause to be maintained fence in side yard- improper height	9	\$105.00
32.	Erect fence-barbed wire	10	\$105.00
33.	Maintain fence-barbed wire	10	\$105.00
34.	Cause to be erected fence-barbed wire	10	\$105.00
35.	Cause to be maintained-fence-barbed wire	10	\$105.00
36.	Erect fence-barbed material	10	\$105.00
37.	Maintain fence-barbed material	10	\$105.00
38.	Cause to be erected fence-barbed material	10	\$105.00
39.	Cause to be maintained-barbed material	10	\$105.00

Penalty provisions for the offences indicated above is Section 14 of By-Law #384, a certified copy of which is attached.

**ONTARIO COURT OF JUSTICE**

**PROVINCIAL OFFENCES ACT**

**PART I**

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 384, of The Town of Essex, attached hereto is the set fine including costs, for those offences. This Order is to take effect March 11, 2002.

Dated at London this 11<sup>th</sup> day of March, 2002.

A handwritten signature in black ink, appearing to read 'A. M. Graham', with a long horizontal stroke extending to the right.

Alexander M. Graham  
Regional Senior Justice  
West Region